

Preliminary Determination

- PD
- PD cover letter

Preliminary Determination



Missoula Water Resources Regional Office
PO Box 5004
2705 Spurgin Road, Bldg. C
Missoula, MT 59806-5004
(406) 721-4284

June 11, 2026

Lee Yelin
5890 Kerr Dr.
Missoula, MT 59803-3028

Subject: Preliminary Determination to Grant Water Right Change Application No. 76M 30171923

Dear Applicant,

The Department of Natural Resources and Conservation (Department or DNRC) has received and considered public comments pursuant to §85-2-307(5), MCA on the following aspects of the Department's Draft Preliminary Determination for your application:

- The Application was trying to attach the water right proposed for change to an unadjudicated claim 76M 116758-00 with an 1880 priority date
- Generally calling into question the historic use of right 76M 30048497
- The approval of this change authorization would jeopardize the valid water use of other right holders in Sixmile drainage
- The land at the place of use is not owned by you, the Applicant, and there should be no claim to beneficial use of water other than the generic instream flow for fisheries on Sixmile
- The beneficial use for fisheries is unsupported by either existing usage or the proprietary rights to support future usage
- The Applicant did not demonstrate why he wishes to make the change, has not demonstrated why a flow measurement below 2.05 CFS would be detrimental to Sixmile fisheries, that measurements utilized in the application are not reflective





of current flows in Sixmile and that the most recent measurements submitted are from 2010-2011. Creek flows can change markedly within a period of sixteen years.

- Inadequate demonstration of how the Applicant has possessory interest in the place of use and they have not demonstrated why they wish to make the proposed change.

The Department has reviewed the public comments. Following consideration of the public comments for our evaluation of the criteria for issuance of Change authorization found in §85-2-402, MCA, the Department has preliminarily determined that the criteria are met, and this application should be granted. A copy of the Preliminary Determination to Grant your application is attached.

The Department will prepare a notice of opportunity to object to the application based on issues identified in the public comment(s), pursuant to §85-2-308, MCA. If no valid objections are received within the objection period, the Department will issue the PD as final pursuant to §85-2-307(5)(c), MCA.

If valid objections are received, the Department will schedule a contested case hearing no more than 90 days after the objection filing deadline, per §85-2-309(1), MCA.

Please let me know if you have any questions.

Best,

A handwritten signature in blue ink, appearing to read "Alex Dalglish".

Alex Dalglish
Water Resource Specialist
Missoula Regional Office
(406)-542-5886
Alexander.dalglish@mt.gov



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

APPLICATION TO CHANGE WATER RIGHT NO. 76M 30171923 BY LEE YELIN))	PRELIMINARY DETERMINATION TO GRANT CHANGE
--	--------	--

On December 30, 2025, Lee Yelin (Applicant) submitted Application to Change a Water Right No. 76M 30171923 to change Statement of Claim 76M 30048497 to the Missoula Regional Office of the Department of Natural Resources and Conservation (Department or DNRC). A preapplication meeting was held between the Department and the Applicant on September 30, 2025, in which the Applicant designated that the technical analyses for this application would be completed by the Department. Jim Nave, Alex Dalgleish, Benjamin Thomas were all present on behalf of the Department. The Applicant returned the completed preapplication materials on October 15, 2025. The Department delivered the Department-completed technical analyses on December 5, 2025. The Department received the Application Form on December 30, 2025. The Department sent Applicant a deficiency letter under §85-2-302, Montana Code Annotated (MCA), dated January 5, 2026. The Applicant responded with information dated January 9, 2026. The Application was determined to be correct and complete as of January 12, 2026. The Department published receipt of the application on its website. An Environmental Assessment for this application was completed on January 12, 2026. The Department provided notice of opportunity to provide public comments to this application per § 85-2-307(4), MCA on April 14, 2026. The Department received three public comments. Of those three public comments received, the Department considered two comments. This Preliminary Determination to Grant incorporates the Department’s consideration and responses to, these public comments.

INFORMATION

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

Application as filed:

- Application for Change of Appropriation Water Right, Form 606
- Addenda:
 - Change to Instream Flow Addendum, Form 606-IFA
- Maps:

- Lee Yelin 606: Historic Use Map, undated
- Lee Yelin 606: Proposed Use Map, undated
- Lee Yelin 606: Project Overview Map, undated
- Department- completed technical analyses based on information provided in the Preapplication materials, dated December 5, 2025.

Information Received after Application Filed

- Deficiency response, dated January 9, 2026, received by the Department January 9, 2026

Information within the Department's Possession/Knowledge

- Prior Change Authorization 76M 30049150
- Statement of Claim File 76M 116758 00
- 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 Missoula Regional Office at 406-721-4284 to request copies of the following documents. The Department Technical Memorandum: Calculating Return Flow, can also be found in the Department's Change Manual.
 - Department Technical Memorandum: Calculating Return Flow, dated April 18, 2019

Public Comments Received

- The Department received three comments on the Preliminary Determination. One comment (Bruce and Barbara Sims) received was not considered because the submitted form did not specify which, if any, change application criteria were not adequately addressed in the draft preliminary determination, and the form was not signed by either commenter. The Department considered two comments (Siegler and Gran) on the adverse effect analysis, one comment on beneficial use (Siegler), and one comment on possessory interest (Gran). The Department determined that the public comments did not demonstrate the criteria for a change in appropriation right were not adequately addressed and did not change its determination on the criteria. The public comments received can be found in the administrative file.
 - Two public comments were received regarding adverse effect. These comments suggested that the Applicant is trying to attach their 1921 priority water right to an unadjudicated claim with an earlier priority date (1880) which would adversely affect many water rights in the Sixmile drainage, generally calling into question the historic use of water right proposed for change, that the Sixmile Creek drainage is closed to new water rights, and that approval of the change would jeopardize the

valid water use of other water right holders. The Department has considered these comments and has not modified the adverse effect criteria analyses or preliminary determination decision.

- Two public comments were received regarding beneficial use. The comments generally call into question the Applicant's beneficial use of water since they do not own land in the Sixmile Creek drainage and argues that the proposed use of water for instream flow is unsupported by existing usage, proprietary rights to support future usage, or the existence of the historic Lebert-Bisonette ditch, and that the Applicant has not demonstrated why they request to make the change. The comments further question the Applicants intent to make the proposed change to instream flow for fisheries. The Department has considered these comments and has not modified the beneficial use criteria analyses or preliminary determination decision.
- One public comment was received regarding possessory interest. This issue generally calls into question the Department's finding of possessory interest, stating that the Applicant does not own any property at the place of use. The Department has considered this comment and has not modified the possessory interest criteria analyses or preliminary determination decision.

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, part 4, 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, POU means place of use, and POD means point of diversion.

WATER RIGHTS TO BE CHANGED

FINDINGS OF FACT

1. The Applicant proposes to temporarily change Statement of Claim 76M 30048497. In 2010, the owner of parent right 76M 116758-00 sold the Applicant 32 Miners Inches (359.04 GPM). A succeeding water right split (Form 641) was submitted to the Department in 2011 on behalf of parent right 76M 116758-00, creating the Applicant's water right 76M 30048497 (and child rights 76M 30048498 and 76M 30048499). The Water Court issued a Master's Report

detailing the ownership split of parent right 76M 116758-00. The Court assigned the Applicant's child water right 76M 30048497 with a flow rate of 359.04 GPM and a place of use (POU) consisting of 21.10 acres in the S2NE Section 23, Township 15 North, Range 22 West. Statement of Claim 76M 30048497 was included in the Preliminary Decree for Basin 76M issued October 9, 2024. The elements proposed for change are shown below:

Table 1: Water Right 76M 30048497 Proposed for Change

Water Right Number	Flow Rate	Diverted Volume	Purpose	Period Of Use	Place Of Use	Point Of Diversion	Priority Date
76M 30048497	359.04 GPM	208.15 AF	Irrigation	April 1 – October 31	S2NE Section 23, Township 15 North, Range 22 West, Missoula County	SWSENW Section 7, Township 15 North, Range 21 West, Missoula County	April 28, 1921

2. On October 25, 2011, the Department issued Change Authorization 76M 30049150 on behalf of right 76M 30048497. This prior authorization allowed the Applicant to temporarily change the purpose, POU and point of diversion (POD) from irrigation to instream flow for fisheries in Sixmile Creek for a period of 10 years. The Department determined that the historic irrigation flow rate of 359.04 GPM and the diverted volume of 208.15 AF were authorized for instream fishery purpose in a reach of Sixmile Creek from April 1 to October 31 annually. The protected reach extended from the historic POD to a location downstream 1.2 miles in the NWSESW, Section 12, Township 15 North, Range 22 West. The Department previously authorized the Applicant to use the historically consumed volume of 19.5 AF downstream of the historic POD.

3. The Applicant failed to file a notice of renewal with the Department for prior Change 76M 30049150, and the authorization expired December 31, 2021. As a result, right 76M 300498497 reverted to the originally claimed irrigation use. The Applicant has filed this change proposal to reinstate the prior temporary instream flow purpose.

4. The right proposed for change in this application is in the Sixmile Creek drainage, which is subject to an administrative water right basin closure. The basin closure rules described in ARM 36.12.1020 do not detail restrictions to water right change applications.

CHANGE PROPOSAL

FINDINGS OF FACT

5. The Applicant proposes to temporarily change the purpose of use, POU and POD for Statement of Claim 76M 30048497 from irrigation to instream flow for the benefit of the fishery

resource in Sixmile Creek. The proposed change is temporary for a period of 10 years as described in § 85-2-408, MCA. The proposed POU is a protected reach of Sixmile Creek from this historical POD at the Lebert-Bissonette ditch headgate in the SWSENW Section 7, Township 15 North, Range 21 West, Missoula County, approximately 1.12 miles downstream to the next diversion on the creek. This protected reach would encompass the proposed PODs and POUs, more specifically being the S2NE, SESENW, E2NESW, SWNESW, and NWSESW Section 12, Township 15 North, Range 22 West.

6. The historical POU of parent right 76M 116758-00 is no longer irrigated and the once irrigated field has been subdivided with several domestic residences having been constructed. In the documents submitted by the Applicant in the prior change authorization, the Applicant stated that the historic conveyance ditch blew out in 2000 and that the ditch was also cut by road construction around the same time. The Applicant also previously stated that an earthen dam was constructed immediately behind the historic POD and the historic conveyance ditch had been decommissioned.

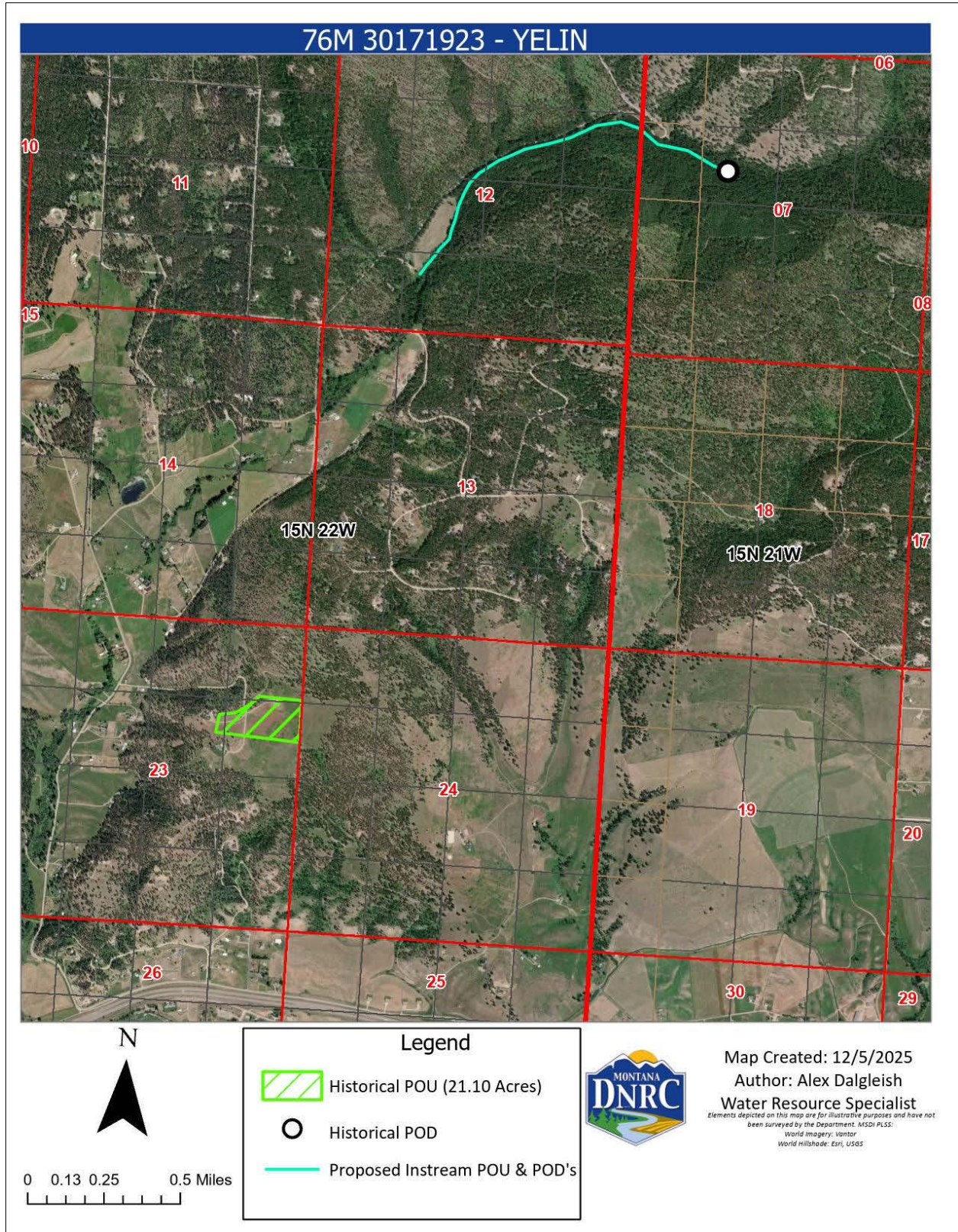


Figure 1. Historic and proposed use map

CHANGE CRITERIA

7. The Department is authorized to approve a change if the Applicant meets its burden to prove the applicable § 85-2-402, MCA, criteria by a preponderance of the evidence. *Matter of Royston*, 249 Mont. 425, 429, 816 P.2d 1054, 1057 (1991); *Hohenlohe v. DNRC*, 2010 MT 203, ¶¶ 33, 35, and 75, 357 Mont. 438, 240 P.3d 628 (an Applicant's burden to prove change criteria by a preponderance of evidence is "more probable than not."); *Town of Manhattan v. DNRC*, 2012 MT 81, ¶ 8, 364 Mont. 450, 276 P.3d 920. Under this Preliminary Determination, the relevant change criteria in § 85-2-402(2), MCA, are:

(2) Except as provided in subsections (4) through (6), (15), (16), and (18) and, if applicable, subject to subsection (17), the department shall approve a change in appropriation right if the appropriator proves by a preponderance of evidence that the following criteria are met:

(a) The proposed change in appropriation right will not adversely affect the use of the existing water rights of other persons or other perfected or planned uses or developments for which a permit or certificate has been issued or for which a state water reservation has been issued under part 3.

(b) The proposed means of diversion, construction, and operation of the appropriation works are adequate, except for: (i) a change in appropriation right for instream flow pursuant to 85-2-320 or 85-2-436; (ii) a temporary change in appropriation right for instream flow pursuant to 85-2-408; or (iii) a change in appropriation right pursuant to 85-2-420 for mitigation or marketing for mitigation.

(c) The proposed use of water is a beneficial use.

(d) 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 change involves 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. This subsection (2)(d) does not apply to: (i) a change in appropriation right for instream flow pursuant to 85-2-320 or 85-2-436; (ii) a temporary change in appropriation right for instream flow pursuant to 85-2-408; or (iii) a change in appropriation right pursuant to 85-2-420 for mitigation or marketing for mitigation.

8. The evaluation of a proposed change in appropriation does not adjudicate the underlying right(s). The Department's change process only addresses the water right holder's ability to make a different use of that existing right. *E.g., Hohenlohe*, ¶¶ 29-31; *Town of Manhattan*, ¶ 8; *In the Matter of Application to Change Appropriation Water Right No.41F-31227 by T-L Irrigation Company* (DNRC Final Order 1991).

9. In addition to the § 85-2-402(2), MCA,¹ an Applicant for a temporary change authorization for instream flow must comply with the requirements and conditions set forth in §§ 85-2-407 and -408, MCA. Section 85-2-408, MCA provides in part:

(1) The department shall accept and process an application for a temporary change in appropriation rights to maintain or enhance instream flow to benefit the fishery resource under the provisions of **85-2-402**, **85-2-407**, and this section. The application must:

(a) include specific information on the length and location of the stream reach in which the streamflow is to be maintained or enhanced; and

(b) provide a detailed streamflow measuring plan that describes the point where and the manner in which the streamflow must be measured.

(2) (a) A temporary change authorization under the provisions of this section is allowable only if the owner of the water right voluntarily agrees to:

(i) change the purpose of a consumptive use water right to instream flow for the benefit of the fishery resource; or

(ii) lease a consumptive use water right to another person for instream flow to benefit the fishery resource.

(3) In addition to the requirements of **85-2-402** and **85-2-407**, an Applicant for a change authorization under this section shall prove by a preponderance of evidence that:

(a) the temporary change authorization for water to maintain and enhance instream flow to benefit the fishery resource, as measured at a specific point, will not adversely affect the water rights of other persons; and

(b) the amount of water for the proposed use is needed to maintain or enhance instream flows to benefit the fishery resource.

(5) The department shall approve the method of measurement of the water to maintain and enhance instream flow to benefit the fishery resource through a temporary change authorization as provided in this section.

....

(8) The maximum quantity of water that may be changed to maintain and enhance streamflows to benefit the fishery resource is the amount historically diverted. However, only the amount historically consumed, or a smaller amount if specified by the department in the lease authorization, may be used to maintain or enhance streamflows to benefit the fishery resource below the existing point of diversion.

10. Pursuant to §§ 85-2-407, and -408, MCA, a temporary change for authorization for instream flow is subject to special conditions which are identified above and addressed in the sections below. The evaluation of a proposed change in appropriation does not adjudicate the underlying right(s). The Department's change process only addresses the water right holder's

¹ Pursuant to §§ 85-2-402 (2)(b) and -402(2)(d), MCA, the Applicant is not required to prove that the proposed means of diversion, construction, and operation of the appropriation works are adequate and is not required to prove possessory interest in the place of use because this application involves a temporary change in appropriation right for instream flow pursuant to § 85-2-408, MCA.

ability to make a different use of that existing right. *E.g., Hohenlohe*, ¶¶ 29-31; *Town of Manhattan*, ¶ 8.

HISTORICAL USE

FINDINGS OF FACT

11. Statement of Claim 76M 30048497 was split from parent right 76M 116758-00 in 2011. Under parent right 76M 116758-00, water was historically diverted from Sixmile Creek with a headgate in the SWSEW Section 7, Township 15 North, Range 21 West, Missoula County for flood irrigation. Parent right 76M 116758-00 was decreed with a priority of 10/9/1880 and a flow rate of 2.8 CFS for flood irrigation of a maximum of 74 acres by the Water Court in the Temporary Preliminary Decree issued for Basin 76M on November 29, 1984. Water was historically diverted from Sixmile Creek using a 36-inch culvert and headgate. In the prior change application, the Applicant demonstrated that the 36-inch culvert could convey up to 5.44 CFS of water at full capacity and between 2.92 to 3.18 CFS when the water depth in the culvert was 2 feet. Water was conveyed approximately 3 miles in the Lebert-Bissonette ditch to the POU for flood irrigation.

12. Child right 76M 30048497 is a filed right and was part of the 2024 Preliminary Decree for Basin 76M. The priority date was modified from October 9, 1880 to April 28, 4/28/1921 through Water Court Case WC 2012-01. Claim 76M 30048497 was decreed without a POU pursuant to the 2011 Master's Report from the Water Court because the claimant of parent right 76M 116758-00 (and subsequently the owner of child right 76M 30048497) did not own the historic POU. However, in their Report, the Water Court ascertained the POU legal land description of child right 76M 30048497 as 21.10 acres in the S2NE Section 23, Township 15 North, Range 22 West, Missoula County.

13. Prior change authorization 76M 30049150 was granted for claim 76M 30048497, temporarily changing the POU, POD and purpose to instream flow for a period of 10 years. In this previous authorization, the Department confirmed 62 irrigated acres through the examination of the 1960 Missoula County Water Resources Survey. The Department also reviewed a 1979 aerial photo and found a maximum of 52 irrigated acres under parent right 76M 116758 00. The Applicant previously conducted a field examination and found 58 historically irrigated acres and the Department recognized these 58 acres as the maximum use under parent right 76M 116758-00.

14. For this proposal, the Applicant agreed to use the Department's prior findings of historic use determined in change authorization 76M 30049150. The Department previously calculated

the historical consumed volume for parent right 76M 116758-00 following the methods described in ARM 36.12.1902 (16). Based on 58 acres of flood irrigation, an IWR for flood irrigation at the Missoula International Airport weather station in Missoula County of 19.45 inches, and a county management factor of 69.5%, the historical consumptive volume for the irrigated acres under parent right 76M 116758-00 was 65.54 AF (58 AC x 19.45 in/12in/ft x 0.695 = 65.54 AF). The Department also previously calculated evaporative losses from the conveyance ditch and found 2.73 AF of losses. The total consumptive use for parent right 76M 116758-00 was previously calculated to be 68.27 AF (65.54 AF + 2.73 AF). In the prior change authorization, the Department did not calculate the field applied volume or irrecoverable losses for parent right 76M 116758-00. In this proposal, the Department calculated the field applied volume to be 119.16 AF using 55% field efficiency of flood irrigation with contour ditch (65.54 AF/0.55=119.16 AF). The Department also determined the applied but non-consumed volume to be 50.89 AF for this change proposal (119.16 AF – 68.27 AF = 50.89 AF). Since the Applicant is using the prior historic use analyses, the Department maintains the historic consumptive volume of 68.27 AF calculated for parent right 76M 116758-00.

15. As part of prior Change Authorization 76M 30014950, the Applicant provided a deed as evidence that he was entitled to 32 miners Inches (359.04 GPM or 0.8 CFS) and up to 39.04 AF of the parent right 76M 116758-00. The Applicant’s share of the 2.8 CFS (1,256.64 GPM) from parent right 76M 116758-00 was determined to be 28.57% (359.04 GPM /1256.64 GPM). Based on this percentage of the flow rate, the Applicant’s share of the historical consumed volume was determined to be 19.5 AF (68.27 AF * .2857). Table 1 below summarizes the historical use for right 76M 116758-00. Table 2 summarizes the historical use under child right 76M 30048497 based on the Applicants proportion of 28.57% under right 76M 30048497.

Table 1: Historical use of Parent Right 76M 116758 00

Irrigation Method	Acres	IWR (in) ¹	Mgmt. Factor ²	Field Efficiency	Crop Cons. (AF)	Applied Volume (AF)	Ditch Evap. (AF)	Total Consumed Volume (AF)	Applied but Non-Consumed Volume (AF)
Flood	58	19.45	69.5	55%	65.54	119.16	2.73	68.27	50.89

¹Missoula WSO AP IWR Weather Station

²Missoula County Historical Use Management Factor (pre-July 1, 1973)

Table 2: Historical volumes attributed to child right 76M 30048497

Crop Consumption (AF)	Applied Volume (AF)	Ditch Evap. (AF)	Total Consumed Volume (AF)	Non-Consumed Volume (AF)
18.72	34.04	0.80	19.5	14.53

16. The period of diversion for parent right 76M 116758-00 (and child right 76M 30048497) is April 1 through October 31, or 214 days. Per the previous change authorization, *“Water was only diverted into the ditch for 144 to 164 days on average due to haying and drying, a common irrigation practice in this area. The Applicant provided flow data taken during various months in 2010 and 2011 to demonstrate flows in Sixmile Creek that would typically be available at the historic point of diversion. Since no measurements were recorded regarding stream flow and diverted flow prior to 1973, it is reasonable to assume that flow measurements taken during 2010 and 2011 are representative of pre-1973 stream flows. The Applicant’s measurements show flows in Sixmile Creek ranging from 5.23 CFS in May to a low of 2.2 CFS in late August. Based on available flows and past irrigation practices, the Applicant estimates that 2.8 CFS was diverted over a period of 84 days during April, May, and June, prior to first cutting of hay, and that 2.2 CFS was diverted over a period of 60 days during July, August, and September, for a total diverted volume of 728.3 AF”*. The volume of water diverted with a flow rate of 2.8 CFS over 84 days equates to a volume of 466.5 AF ($2.8 \text{ CFS} \times 60 \text{ seconds} / 1 \text{ minute} \times 24 \text{ hours} / 1 \text{ day} \times 84 \text{ days} / 1 \text{ year} \times 1 \text{ acre} / 43,560 \text{ ft}^2 = 466.5 \text{ AF}$). During lower flow months when 2.2 CFS was diverted, this is equal to a volume of 261.8 AF ($2.2 \text{ CFS} \times 60 \text{ seconds} / 1 \text{ minute} \times 24 \text{ hours} / 1 \text{ day} \times 60 \text{ days} / 1 \text{ year} \times 1 \text{ acre} / 43,560 \text{ ft}^2 = 261.8 \text{ AF}$). The total diverted volume under parent right 76M 116758-00 was 728.3 AF (466.5 + 261.8).

17. Historical diverted volume is equal to the sum of the field application volume and the volume of conveyance losses per ARM 36.12.1902(10). The Department’s prior historical analyses did not include a calculation of conveyance losses (evaporative, seepage, vegetative) attributed to the diverted volume. Nonetheless, the Applicant requested to use the historical diverted volume figure previously determined for their right. From the diverted volume of 728.3 AF under 76M 116758-00, the portion attributed to the Applicants right was determined to be 208.15 AF ($728.3 \text{ AF} \times 0.2858 = 208.15$).

Table 3. Summary of historical use findings for 76M 30048497

Water Right	Priority Date	Diverted Volume	Flow Rate	Purpose (Total Acres)	Consumptive Use	Place of Use	Point of Diversion
76M 30048497	4/28/1921	208.15 AF	359.04 GPM	21.10	19.5 AF	S2NE Sec. 23, T15N, R22W, Missoula County	SWSENW Sec. 7, T15N, R21W, Missoula County

ADVERSE EFFECT

FINDINGS OF FACT

18. The Applicant proposes to temporarily change Statement of Claim 76M 30048497 to instream flow to benefit fishery resources for water from Sixmile Creek. The protected reach proposed for this purpose is from the historical headgate in the SWSENW Section 7, Township 15 North, Range 21 West, to a point downstream at the next diversion on the creek in the NWSESW Section 12, Township 15 North, Range 21 West. The full diverted volume of 208.15 AF and the flow rate of 359.04 GPM will be left in stream. The historically irrigated acres will no longer be irrigated as the historic conveyance ditch has been decommissioned through the construction of an earthen dam just down-gradient from the headgate. This dam blocks water from flowing in the ditch. The requested change will not adversely affect downstream users because water is now being left in the creek, resulting in higher flows that will be available for appropriation below the protected reach. During the time the prior change was authorized (2011-2021), the Department did not receive any documented calls for water on behalf of right 76M 30048497.

19. In the Technical Analyses Report – Part B, the Department calculated the historical return flows of Statement of Claim 76M 30048497 to be 14.53 AF. Of this volume, 11.62 AF returned to Sixmile Creek, and 2.91 AF accrued to the Clark Fork River. The Department determined that the point where return flows entered Sixmile Creek is the SWNENW of Section 23, Township 15 North, Range 22 West. This location is downstream from the lower end of the protected reach. Since water is left instream, the historically diverted flows are available below the point of diversion during the historic period of diversion. The Department did not find that junior users on Sixmile Creek were historically depending on return flows from irrigation under 76M 30048497.

20. Those return flows entering the Clark Fork River began in the NWSWNE Section 26, Township 15 North, Range 22 West. The Applicant is leaving the entire historically diverted volume in Sixmile Creek, which is tributary to the Clark Fork River. There are no diversion on the

local reach of the Clark Fork River that have benefited or relied on the Applicant's return flows that could be adversely affected.

21. Return flows are evaluated by determining the volume of water that infiltrates past the root zone and identifying the likely receiving stream(s). The assumption is made that water applied for irrigation that is not consumed by a crop infiltrates to groundwater becoming return flow and does not runoff. The amount of water consumed is the difference between the amount of water consumed and the amount of water applied to the field. The receiving waterways for return flows are determined by their proximity to and evidence of hydraulic connection to groundwater and generally does not depend on groundwater flow direction or land slope.

22. For the purposes of this Application, a limited return flow analysis was performed to determine whether water left instream so that historically diverted flows are available during the historic period of diversion either below the point of diversion or where return flows historically returned to the source. The Department determined that the Applicant will protect the entire historically diverted volume of 208.15 AF for their water right, as it will be left instream below the historical POD and that there are no existing rights on the affected reach of the Clark Fork River.

23. Per the Department's Policy Memorandum on Return Flows, dated April 18, 2019, no further return flow analyses will be undertaken by the Department unless a valid objection is received, provided there will be no enlargement of the amounts of water historically diverted or consumed.

24. The Department considered an area of potential adverse effect on the source of supply. This reach was determined by accounting for the location of the historical point and proposed points of diversion. The area of potential adverse effect is the proposed protected reach. This reach extends from the historical POD on Sixmile Creek in the SWSEW of Section 7, Township 15 North, Range 21 West, downstream approximately 1.12 miles to the next diversion on the creek (located in the NWSEW of Section 12, Township 15 North, Range 21 West. There are no rights diverting water from Sixmile Creek within the proposed protected reach.

25. During the term of this proposed temporary change, the 21.10-acre historical POU will be retired from irrigation and the total flow rate and historical diverted volume of up to 359.04 GPM and 208.15 AF will be left instream at the historical POD at the Lebert-Bissonnette ditch headgate in Sixmile Creek. The proposed instream fishery period of use is April 15 to October 31 annually. The Applicant proposes to continue measuring water at the historical POD headgate in the SWSEW Section 7, Township 15 North, Range 21 West, as required by § 85-2-408 (1)(b), MCA.

The Applicant also states that they will continue measuring water in the E2SW Section 12, Township 15 North, Range 22 West, where Sixmile Creek crosses the State land property boundary. Staff gages are present at the historic POD and State land boundary location, and the Applicant proposes to measure water using a Marsh McBirney flow meter. Once the meter is used and a stage rating curve is developed, the Applicant can visually read the staff gages to obtain measurements. If the flow rate is unknown, the Applicant states they will provide rating charts to the Department. Finally, the Applicant states that staff gage readings will occur quarterly to verify compliance and more often during extreme low flow periods if a call for water is implemented.

26. Under the prior change authorization, the Applicant was required to measure the flow rate of Sixmile Creek at the historic POD. Continued flow rate monitoring and measurements at the historic POD will ensure that water rights within the protected reach are not adversely affected. This application will be subject to the following measurement condition:

THE APPLICANT OR IT'S DESIGNEE SHALL MEASURE THE PROTECTED REACH OF SIXMILE CREEK BY TAKING FLOW MEASUREMENTS AT THE LEBERT – BISSONETTE DITCH HEADGATE WHICH IS LOCATED IN THE SWSEW, SEC 7, TWP 15N, RGE 21W, MISSOULA COUNTY. MEASUREMENTS WILL BE TAKEN MONTHLY FROM JUNE THROUGH SEPTEMBER. THIS CHANGE AUTHORIZATION, ALLOWS FOR A CALL FOR WATER FROM UPSTREAM JUNIOR SIXMILE CREEK WATER USERS WHEN THE STREAM FLOW MEASURED ON SIXMILE CREEK BY THE APPLICANT OR IT'S DESIGNEE FALLS BELOW 2.05 CFS WITHIN THE AFOREMENTIONED TIMEFRAME. THE RECORDED FLOW RATE MEASUREMENTS MUST BE SENT TO THE DNRC MISSOULA REGIONAL OFFICE BY NOVEMBER 30 EACH YEAR DURING THE TEMPORARY CHANGE AUTHORIZATION.

27. The Department may approve a change in appropriation right if the Applicant proves by a preponderance of evidence that the proposed change will not adversely affect the use of existing water rights pursuant to 85-2-4023(2)(a). The Applicant must also demonstrate that “the temporary change authorization for water to maintain and enhance instream flow to benefit the fishery resource, as measured at a specific point, will not adversely affect the water rights of other persons.” § 85-2-408(3)(a), MCA. If any water right holder believes they will be adversely affected by a change in timing and the amount of return flows resulting from this proposal, they may file an objection to the proposed project pursuant to 85-2-307(3), and § 85-2-308, MCA.

28. The Department finds that the Applicant’s proposal will not result in adverse effects to other water rights.

ISSUES RAISED BY PUBLIC COMMENTS AND THE DEPARTMENT'S RESPONSE

29. The Department considered two public comments regarding the adverse effect criterion (Siegler and Gran). These comments raised three issues.

30. Issue 1: The commenter (Siegler) finds issue with the Applicant's priority date, stating that *"the Applicant is trying to attach his water right standing to 76M 116758-00, an unadjudicated claim with an 1880 priority date"*.

31. Response 1: Applicant's right, 76M 30048497, and its parent Claim 76M 116758-00, were both included in the most recent adjudication of Basin 76M Preliminary Decree. These rights have a priority date of April 28, 1921. Previously in 2013, through Water Court case WC-2012-01, the Water Court determined the validity and priority date of parent Claim 76M 116758-00 and associated child rights, which includes the Applicant's right 76M 30048497 proposed for change. The parties in case WC-2012-01 filed an executed settlement agreement with the Court which modified the priority date for parent Claim 76M 116758-00 and its three child rights (76M 30048497, 76M 30048498 and 76M 30048499) from October 9, 1880, to April 28, 1921. The Applicant is not, and cannot, proposing to change the decreed priority date of 76M 30048497.

32. Issue 2: Commenters (Siegler and Gran) find issue with the Department findings of historic use of the Applicant's water right and the overall use of the Lebert-Bisonette ditch. They (Siegler) questions the historic use of the Applicant's right 76M 30048497 and assert it has not been put to beneficial use in 49 years. Further Siegler states that the Applicant does not have a right to the flow from the Levert-Bisonette ditch. Commenter Gran questions the validity of the right since they contend that water has never been successfully transported from Sixmile Creek to the historically listed place of use.

33. Response 2: The Department's historical use analysis was based on findings of fact in prior Change Authorization 76M 30049150, issued on October 25, 2011, which provided evidence of historical use. Regarding past periods of non-use, Section 85-2-309(2), MCA, provides that the Department may certify all factual and legal issues involving abandonment to the proper court for adjudication. Under the statute, certification occurs after the Department determines that there is a valid objection to an application, not at the public comment stage.

34. Issue 3: The Commenter (Siegler) states that approval of the change application would jeopardize the valid water use of other water right holders.

35. Response 3: The commenter did not elaborate how the proposed change for instream flow would jeopardize other water users. The Department found that the Applicant's proposal would not result in adverse effects to other water rights.

36. Considering the public comments and the original analysis conducted, the Department finds that the Applicant's proposal to leave the diverted volume of 208.15 AF and the flow rate of 359.04 GPM instream will not have a known adverse effect because water will remain in Sixmile Creek, resulting in higher flows that will be available for appropriation below the protected reach. The proposed change in water use has been occurring since at least 2011, when the previous change in purpose to instream flow was authorized under Change No. 76M 30049150, and there have been no known calls for water in the last 15 years.

37. The public comments received regarding the Departments analysis of the adverse effect criterion has been addressed in FOF 29-36. The information supplied by the commenters does not demonstrate that the adverse effect criterion was inadequately addressed and the Department will not reevaluate this criterion.

38. Considering the public comment and the original analysis conducted, the Department finds that the proposed use of 359.04 GPM and 208.15 AF will not cause adverse effect and the Applicant's plan to prevent adverse effects to existing water rights is considered adequate.

BENEFICIAL USE

FINDINGS OF FACT

39. The Applicant proposes to temporarily change water right 76M 30048497 to instream flow purpose to protect, maintain or enhance stream flows to benefit the fishery resource of Sixmile Creek. Instream flow to benefit fishery resource is a recognized beneficial use of water in the State of Montana under § 85-2-102, MCA. The Applicant proposes to protect 359.04 GPM up to 208.15 AF at the historic POD and 359.04 GPM and 19.5 AF below the POD for a length of 1.12 miles down to the next downstream junior user.

40. In prior change authorization 76M 30049150, the Applicant provided a letter from Montana Fish, Wildlife and Parks (FWP) biologist Ladd Knotek in support of the proposed change to instream flow. According to Mr. Knotek, the reach of stream proposed for instream use supports a viable aquatic community, including Westslope Cutthroat Trout with high genetic purity, and that the proposed change to instream flow would assist in maintaining flows in this critically dewatered reach. While this letter was not resubmitted as part of the materials for this application, it is reasonable that FWP will continue supporting the proposal to maintain additional instream flows in Sixmile Creek. Re-establishing the temporary instream flow will continue to support the aquatic community in the creek.

41. The Sixmile Creek basin is closed to new appropriations of surface water for consumptive use from June 1- September 15 each year. The Applicant's proposal to leave 359.04 GPM and up to 208.15 AF diverted volume in the proposed protected reach would benefit Sixmile Creek. The Department finds the Applicant's proposal is reasonable to accomplish fisheries, habitat, and streamflow improvements through the irrigation season in Sixmile Creek

42. The Department finds the proposed temporary appropriation of 359.04 GPM up to a volume of 208.15 AF for the purposes of enhancing and augmenting streamflows for the benefit of the fishery resource in the instream place of use in Sixmile Creek to be a beneficial use of water.

ISSUES RAISED BY PUBLIC COMMENTS AND THE DEPARTMENTS RESPONSE

43. The Department considered two public comments (Siegler and Gran) regarding beneficial use. These comments raised three issues.

44. Issue 1: Commenter Siegler assert that the Applicant does not own land in the Sixmile drainage and therefore, should have no claim to beneficial use of water other than the generic instream flow for fisheries in Sixmile Creek.

45. Response 1: The proposal to change the purpose to instream flow for fisheries is recognized as a beneficial use pursuant to § 85-2-102, MCA. Additionally, possessory interest of the place of use in an instream flow change is not a statutory requirement per 85-2-402(2)(d)(ii), MCA.

46. Issue 2: The commenter (Siegler) stated that the *"historic flow rate and diverted volume of 359.04 GPM and 208.15 AF will be protected in a reach of Six Mile Creek from the original headgate to a location downstream 1.2 miles in the NWSESW Sec. 12, T15N, R22W. The Township map clearly shows the Lebert-Bisonette ditch terminating in Section 23, not Section 12. Again, the purported "beneficial use" of fisheries is unsupported by either existing usage, proprietary rights to support future usage, or the existence of the Lebert-Bisonette ditch..."*.

47. Response 2: The Applicant's proposed instream flow reach extends from the historic point of diversion to a point on Sixmile Creek in Section 12. The Applicant is not proposing to continue use of the historic ditch. Rather, they are requesting to leave their historic diverted flow rate and diverted volume instream in Sixmile Creek. Pursuant to § 85-2-102, MCA, the proposed use of water for instream flow to benefit fishery resource is a recognized beneficial use of water in the State of Montana.

48. Issue 3: Commenter (Gran) states that the Applicant "has not demonstrated why he wishes to make this change, other than to state that the change is for fisheries in Sixmile Creek.

On these grounds, he has not demonstrated that a flow measurement of below 2.05 CFS would be detrimental to Sixmile Creek fisheries, that Sixmile Creek flows fall to a level which threatens fisheries, or... that the measurements utilized in the application are reflective of the current flows of Sixmile Creek. The most recent measurements submitted in his application are from 2010-2011. This is a full fifteen years ago. Creek flows can change markedly within a period of sixteen years”.

49. Response 3: The Department finds instream flow for fisheries to be a beneficial use per 85-2-102(5)(d), MCA. As part of the previous instream flow authorization, the Applicant submitted flow measurements in 2014 and 2015, and has collected measurements as recently as 2017.

50. The public comment received regarding the Department’s analysis of the beneficial use criterion have been addressed in FOF 43-49. The information supplied by the commenters does not demonstrate that the beneficial use criterion was inadequately addressed and the Department will not reevaluate this criterion.

51. Considering the public comments received and the original analyses conducted, the Department finds that the proposed use of 359.04 GPM and 208.15 AF for the purpose of instream flow for fisheries to be a beneficial use of water.

ADEQUATE DIVERSION

FINDINGS OF FACT

52. The proposed change of 76M 30048497 does not require a means of diversion or conveyance. Per § 85-2-402(2)(b), MCA, a change in appropriation right for instream flow pursuant to § 85-2-408, MCA, is exempt from the adequacy of diversion criterion.

POSSESSORY INTEREST

FINDINGS OF FACT

53. Pursuant to § 85-2-402(2)(d), MCA, the Applicant is not required to prove that they have 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 because this application involves a change in appropriation right for instream flow per § 85-2-408, MCA.

ISSUES RAISED BY PUBLIC COMMENTS AND THE DEPARTMENTS RESPONSE

54. The Department considered one comment regarding possessory interest (Gran). This comment raised one issue.

55. Issue 1: The commenter states that “the PD does not adequately address how the applicant has possessory interest in the place of use. His possessory interest is not addressed at

all. He does not own any of the property at the place of use. He has not demonstrated why he wishes to make this change, other than to state that the change is for fisheries in Six Mile Creek”.

56. Response 1: The Applicant is the listed owner of 76M 30048497 proposed for change in the Department’s water right database. Per MCA 85-2-402(2)(d)(ii), the Applicant is not required to prove that they have possessory interest since the application proposes to temporarily change the right to instream flow purposes. The other items discussed by the commenter are not relevant to the possessory interest criteria. The Department did not update the criteria analysis in response to comments about possessory interest.

57. The public comment received regarding the Department’s analysis of the possessory interest criterion have been addressed in FOF 54-56. The information supplied by the commenter does not demonstrate that the possessory interest criterion was inadequately addressed and the Department will not reevaluate this criterion.

TEMPORARY PROTECTED REACH/ MEASUREMENT PLAN

FINDINGS OF FACT

58. The Applicant is proposing to temporarily change the purpose and place of use of 76M 30048497 to instream flow for the benefit of the fishery resource in Sixmile Creek for a period of 10 years with the option to renew. During the term of this temporary change, the Applicant proposes to cease diversion at the historical POD. A flow rate of 359.04 GPM and up to 208.15 AF of diverted volume will be available in the protected reach. After this change, the Applicant will appropriate 359.04 GPM in the proposed 1.12-mile instream place of use in Sixmile Creek, which will extend from the SWSEW of Section 7, Township 15N, Range 21 West, to the NWSEW of Section 12, Township 15 North, Range 21 West. The proposed period of use is April 1 through October 31. The volume available to be appropriated instream is 208.15 AF.

59. The Applicant will monitor flow rates and volumes appropriated for the instream flow purpose by measuring flow in Sixmile Creek at the historic headgate/POD with staff gages and if necessary, a Marsh McBirney flow meter. A staff gage is currently present at this location and streamflow measurements will continue to be taken by the Applicant (as required by prior change authorization 76M 30049150). A rating chart can be supplied to DNRC upon completion of several measurements.

60. The Applicant proposes to protect 359.04 GPM up to 208.15 AF at the historic POD and 359.04 GPM and 19.5 AF below the POD for a length of 1.12 miles down to the next downstream junior user.

61. If authorized, the following condition will be added to the water right to satisfy the additional measurement plan criterion described in § 85-2-408, MCA for temporary change to instream flow:

THE APPLICANT OR IT'S DESIGNEE SHALL MEASURE THE PROTECTED REACH OF SIXMILE CREEK BY TAKING FLOW MEASUREMENTS AT THE LEBERT – BISSONETTE DITCH HEADGATE WHICH IS LOCATED IN THE SWSENW, SEC 7, TWP 15N, RGE 21W, MISSOULA COUNTY. MEASUREMENTS WILL BE TAKEN MONTHLY FROM JUNE THROUGH SEPTEMBER. THIS CHANGE AUTHORIZATION, ALLOWS FOR A CALL FOR WATER FROM UPSTREAM JUNIOR SIXMILE CREEK WATER USERS WHEN THE STREAM FLOW MEASURED ON SIXMILE CREEK BY THE APPLICANT OR IT'S DESIGNEE FALLS BELOW 2.05 CFS WITHIN THE AFOREMENTIONED TIMEFRAME. THE RECORDED FLOW RATE MEASUREMENTS MUST BE SENT TO THE DNRC MISSOULA REGIONAL OFFICE BY NOVEMBER 30 EACH YEAR DURING THE TEMPORARY CHANGE AUTHORIZATION.

62. The Department finds the Applicant has met the additional criteria for a temporary change in appropriation right to maintain or enhance instream flow to benefit a fishery resource under the provisions of § 85-2-408, MCA.

CONCLUSIONS OF LAW

HISTORICAL USE AND ADVERSE EFFECT

63. Montana's change statute codifies the fundamental principles of the Prior Appropriation Doctrine. Sections 85-2-401 and -402(1)(a), MCA, authorize changes to existing water rights, permits, and water reservations subject to the fundamental tenet of Montana water law that one may change only that to which he or she has the right based upon beneficial use. A change to an existing water right may not expand the consumptive use of the underlying right or remove the well-established limit of the appropriator's right to water actually taken and beneficially used. An increase in consumptive use constitutes a new appropriation and is subject to the new water use permit requirements of the MWUA. *McDonald v. State*, 220 Mont. 519, 530, 722 P.2d 598, 605 (1986) (beneficial use constitutes the basis, measure, and limit of a water right); *Featherman v. Hennessy*, 43 Mont. 310, 316-17, 115 P. 983, 986 (1911) (increased consumption associated with expanded use of underlying right amounted to new appropriation rather than change in use); *Quigley v. McIntosh*, 110 Mont. 495, 103 P.2d 1067, 1072-74 (1940) (appropriator may not expand a water right through the guise of a change – expanded use constitutes a new use with a new priority date junior to intervening water uses); *Allen v. Petrick*, 69 Mont. 373, 222 P. 451(1924)

(“quantity of water which may be claimed lawfully under a prior appropriation is limited to that quantity within the amount claimed which the appropriator has needed, and which within a reasonable time he has actually and economically applied to a beneficial use. . . . it may be said that the principle of beneficial use is the one of paramount importance . . . The appropriator does not own the water. He has a right of ownership in its use only”); *Town of Manhattan*, ¶ 10 (an appropriator’s right only attaches to the amount of water actually taken and beneficially applied).²

64. Sections 85-2-401(1) and -402(2)(a), MCA, codify the prior appropriation principles that Montana appropriators have a vested right to maintain surface and ground water conditions substantially as they existed at the time of their appropriation; subsequent appropriators may insist that prior appropriators confine their use to what was actually appropriated or necessary for their originally intended purpose of use; and, an appropriator may not change or alter its use in a manner that adversely affects another water user. *Spokane Ranch & Water Co. v. Beatty*, 37 Mont. 342, 96 P. 727, 731 (1908); *Quigley*, 110 Mont. at 505-11, 103 P.2d at 1072-74; *Matter of Royston*, 249 Mont. at 429, 816 P.2d at 1057; *Hohenlohe*, ¶¶ 43-45.³

65. The cornerstone of evaluating potential adverse effect to other appropriators is the determination of the “historic use” of the water right being changed. *Town of Manhattan*, ¶ 10 (recognizing that the Department’s obligation to ensure that change will not adversely affect other water rights requires analysis of the actual historic amount, pattern, and means of water use). A change Applicant must prove the extent and pattern of use for the underlying right proposed for change through evidence of the historic diverted amount, consumed amount, place of use, pattern of use, and return flow because a statement of claim, permit, or decree may not include the beneficial use information necessary to evaluate the amount of water available for change or potential for adverse effect.⁴ A comparative analysis of the historic use of the water right to the proposed change in use is necessary to prove the change will not result in expansion of the original right, or adversely affect water users who are entitled to rely upon maintenance of

² DNRC decisions are available at: <https://dnrc.mt.gov/Directors-Office/HearingOrders>

³ See also *Holmstrom Land Co., Inc., v. Newlan Creek Water District*, 185 Mont. 409, 605 P.2d 1060 (1979); *Lokowich v. Helena*, 46 Mont. 575, 129 P. 1063 (1913); *Thompson v. Harvey*, 164 Mont. 133, 519 P.2d 963 (1974) (plaintiff could not change his diversion to a point upstream of the defendants because of the injury resulting to the defendants); *McIntosh v. Graveley*, 159 Mont. 72, 495 P.2d 186 (1972) (appropriator was entitled to move his point of diversion downstream, so long as he installed measuring devices to ensure that he took no more than would have been available at his original point of diversion); *Head v. Hale*, 38 Mont. 302, 100 P. 222 (1909) (successors of the appropriator of water appropriated for placer mining purposes cannot so change its use as to deprive lower appropriators of their rights, already acquired, in the use of it for irrigating purposes); and, *Gassert v. Noyes*, 18 Mont. 216, 44 P. 959 (1896) (change in place of use was unlawful where reduced the amount of water in the source of supply available which was subject to plaintiff’s subsequent right).

⁴A claim only constitutes *prima facie* evidence for the purposes of the adjudication under § 85-2-221, MCA. The claim does not constitute *prima facie* evidence of historical use in a change proceeding under § 85-2-402, MCA. For example, most water rights decreed for irrigation are not decreed with a volume and provide limited evidence of actual historic beneficial use. Section 85-2-234, MCA

conditions on the source of supply for their water rights. *Quigley*, 103 P.2d at 1072-75 (it is necessary to ascertain historic use of a decreed water right to determine whether a change in use expands the underlying right to the detriment of other water user because a decree only provides a limited description of the right); *Royston*, 249 Mont. at 431-32, 816 P.2d at 1059-60 (record could not sustain a conclusion of no adverse effect because the Applicant failed to provide the Department with evidence of the historic diverted volume, consumption, and return flow); *Hohenlohe*, ¶ 44-45; *Town of Manhattan v. DNRC*, Cause No. DV-09-872C, Montana Eighteenth Judicial District Court, *Order Re Petition for Judicial Review*, Pgs. 11-12 (proof of historic use is required even when the right has been decreed because the decreed flow rate or volume establishes the maximum appropriation that may be diverted, and may exceed the historical pattern of use, amount diverted or amount consumed through actual use); *Matter of Application For Beneficial Water Use Permit By City of Bozeman*, *Memorandum*, Pgs. 8-22 (Adopted by DNRC *Final Order* January 9, 1985)(evidence of historic use must be compared to the proposed change in use to give effect to the implied limitations read into every decreed right that an appropriator has no right to expand his appropriation or change his use to the detriment of juniors).⁵

66. An Applicant must also analyze the extent to which a proposed change may alter historic return flows for purposes of establishing that the proposed change will not result in adverse effect. The requisite return flow analysis reflects the fundamental tenant of Montana water law that once

⁵ Other western states likewise rely upon the doctrine of historic use as a critical component in evaluating changes in appropriation rights for expansion and adverse effect: *Pueblo West Metropolitan District v. Southeastern Colorado Water Conservancy District*, 717 P.2d 955, 959 (Colo. 1986)("[O]nce an appropriator exercises his or her privilege to change a water right ... the appropriator runs a real risk of requantification of the water right based on actual historical consumptive use. In such a change proceeding a junior water right ... which had been strictly administered throughout its existence would, in all probability, be reduced to a lesser quantity because of the relatively limited actual historic use of the right."); *Santa Fe Trail Ranches Property Owners Ass'n v. Simpson*, 990 P.2d 46, 55 -57 (Colo., 1999); *Farmers Reservoir and Irr. Co. v. City of Golden*, 44 P.3d 241, 245 (Colo. 2002)("We [Colorado Supreme Court] have stated time and again that the need for security and predictability in the prior appropriation system dictates that holders of vested water rights are entitled to the continuation of stream conditions as they existed at the time they first made their appropriation); *Application for Water Rights in Rio Grande County*, 53 P.3d 1165, 1170 (Colo. 2002); Wyo. Stat. § 41-3-104 (When an owner of a water right wishes to change a water right ... he shall file a petition requesting permission to make such a change The change ... may be allowed provided that the quantity of water transferred ... shall not exceed the amount of water historically diverted under the existing use, nor increase the historic rate of diversion under the existing use, nor increase the historic amount consumptively used under the existing use, nor decrease the historic amount of return flow, nor in any manner injure other existing lawful appropriators.); *Basin Elec. Power Co-op. v. State Bd. of Control*, 578 P.2d 557, 564 -566 (Wyo, 1978) (a water right holder may not effect a change of use transferring more water than he had historically consumptively used; regardless of the lack of injury to other appropriators, the amount of water historically diverted under the existing use, the historic rate of diversion under the existing use, the historic amount consumptively used under the existing use, and the historic amount of return flow must be considered.)

water leaves the control of the original appropriator, the original appropriator has no right to its use and the water is subject to appropriation by others. *E.g., Hohenlohe*, ¶ 44; *Rock Creek Ditch & Flume Co. v. Miller*, 93 Mont. 248, 17 P.2d 1074, 1077 (1933); *Newton v. Weiler*, 87 Mont. 164, 286 P. 133 (1930); *Popham v. Holloron*, 84 Mont. 442, 275 P. 1099, 1102 (1929); *Galiger v. McNulty*, 80 Mont. 339, 260 P. 401 (1927); *Head v. Hale*, 38 Mont. 302, 100 P. 222 (1909); *Spokane Ranch & Water Co.*, 37 Mont. at 351-52, 96 P. at 731; *Hidden Hollow Ranch v. Fields*, 2004 MT 153, 321 Mont. 505, 92 P.3d 1185; ARM 36.12.101(56) (Return flow - that part of a diverted flow which is not consumed by the appropriator and returns underground to its original source or another source of water - is not part of a water right and is subject to appropriation by subsequent water users).⁶

67. Although the level of analysis may vary, analysis of the extent to which a proposed change may alter the amount, location, or timing return flows is critical in order to prove that the proposed change will not adversely affect other appropriators who rely on those return flows as part of the source of supply for their water rights. *Royston*, 249 Mont. at 431, 816 P.2d at 1059-60; *Hohenlohe*, at ¶¶ 45-46 and 55-6; *Spokane Ranch & Water Co.*, 37 Mont. at 351-52, 96 P. at 731.

68. In *Royston*, the Montana Supreme Court confirmed that an Applicant is required to prove lack of adverse effect through comparison of the proposed change to the historic use, historic consumption, and historic return flows of the original right. 249 Mont. at 431, 816 P.2d at 1059-60. More recently, the Montana Supreme Court explained the relationship between the fundamental principles of historic beneficial use, return flow, and the rights of subsequent appropriators as they relate to the adverse effect analysis in a change proceeding in the following manner:

The question of adverse effect under §§ 85-2-402(2) and -408(3), MCA, implicates return flows. A change in the amount of return flow, or to the hydrogeologic pattern of return flow, has the potential to affect adversely downstream water rights. There consequently exists an inextricable link between the “amount historically consumed” and the water that re-enters the stream as return flow. . . . An appropriator historically has been entitled to the greatest quantity of water he can put to use. The requirement that the use be both beneficial and reasonable, however, proscribes this tenet. This limitation springs from a fundamental tenet of western water law-that an appropriator has a right only to that amount of water historically put to beneficial use-developed in concert with the rationale that each subsequent appropriator “is entitled to have the water flow in the same manner as when he located,” and the appropriator may insist that prior appropriators do not

⁶ The Montana Supreme Court recently recognized the fundamental nature of return flows to Montana’s water sources in addressing whether the Mitchell Slough was a perennial flowing stream, given the large amount of irrigation return flow which feeds the stream. The Court acknowledged that the Mitchell’s flows are fed by irrigation return flows available for appropriation. *Bitterroot River Protective Ass’n, Inc. v. Bitterroot Conservation Dist.*, 2008 MT 377, ¶¶ 22, 31, 43, 346 Mont. 508, 198 P.3d 219, (citing *Hidden Hollow Ranch v. Fields*, 2004 MT 153, 321 Mont. 505, 92 P.3d 1185).

affect adversely his rights.

This fundamental rule of Montana water law has dictated the Department's determinations in numerous prior change proceedings. The Department claims that historic consumptive use, as quantified in part by return flow analysis, represents a key element of proving historic beneficial use.

We do not dispute this interrelationship between historic consumptive use, return flow, and the amount of water to which an appropriator is entitled as limited by his past beneficial use.

Hohenlohe, at ¶¶ 42-45 (internal citations omitted).

69. The Department's rules reflect the above fundamental principles of Montana water law and are designed to itemize the type evidence and analysis required for an Applicant to meet its burden of proof. ARM 36.12.1901 through 1903. These rules forth specific evidence and analysis required to establish the parameters of historic use of the water right being changed. ARM 36.12.1901 and 1902. The rules also outline the analysis required to establish a lack of adverse effect based upon a comparison of historic use of the water rights being changed to the proposed use under the changed conditions along with evaluation of the potential impacts of the change on other water users caused by changes in the amount, timing, or location of historic diversions and return flows. ARM 36.12.1901 and 1903.

70. Applicant seeks to change existing water rights represented by its Water Right Claims. The "existing water rights" in this case are those as they existed prior to July 1, 1973, because with limited exception, no changes could have been made to those rights after that date without the Department's approval. Analysis of adverse effect in a change to an "existing water right" requires evaluation of what the water right looked like and how it was exercised prior to July 1, 1973. In *McDonald v. State*, the Montana Supreme Court explained:

The foregoing cases and many others serve to illustrate that what is preserved to owners of appropriated or decreed water rights by the provision of the 1972 Constitution is what the law has always contemplated in this state as the extent of a water right: such amount of water as, by pattern of use and means of use, the owners or their predecessors put to beneficial use. . . . the Water Use Act contemplates that all water rights, regardless of prior statements or claims as to amount, must nevertheless, to be recognized, pass the test of historical, unabandoned beneficial use. . . . To that extent only the 1972 constitutional recognition of water rights is effective and will be sustained.

220 Mont. at 529, 722 P.2d at 604; see also *Matter of Clark Fork River Drainage Area*, 254 Mont. 11, 17, 833 P.2d 1120 (1992).

71. Water Resources Surveys were authorized by the 1939 legislature. 1939 Mont. Laws Ch. 185, § 5. Since their completion, Water Resources Surveys have been invaluable evidence in

water right disputes and have long been relied on by Montana courts. *In re Adjudication of Existing Rights to Use of All Water in North End Subbasin of Bitterroot River Drainage Area in Ravalli and Missoula Counties*, 295 Mont. 447, 453, 984 P.2d 151, 155 (1999) (Water Resources Survey used as evidence in adjudicating of water rights); *Wareing v. Schreckendgust*, 280 Mont. 196, 213, 930 P.2d 37, 47 (1996) (Water Resources Survey used as evidence in a prescriptive ditch easement case); *Olsen v. McQueary*, 212 Mont. 173, 180, 687 P.2d 712, 716 (1984) (judicial notice taken of Water Resources Survey in water right dispute concerning branches of a creek).

72. While evidence may be provided that a particular parcel was irrigated, the actual amount of water historically diverted and consumed is critical. *E.g.*, *In the Matter of Application to Change Water Right No. 41H 1223599 by MGRR #1, LLC.*, DNRC Proposal for Decision adopted by Final Order (2005). The Department cannot assume that a parcel received the full duty of water or that it received sufficient water to constitute full-service irrigation for optimum plant growth. Even when it seems clear that no other rights could be affected solely by a particular change in the location of diversion, it is essential that the change also not enlarge an existing right. *See MacDonald*, 220 Mont. at 529, 722 P.2d at 604; *Featherman*, 43 Mont. at 316-17, 115 P. at 986; *Trail's End Ranch, L.L.C. v. Colorado Div. of Water Resources*, 91 P.3d 1058, 1063 (Colo., 2004).

73. The Department has adopted a rule providing for the calculation of historic consumptive use where the Applicant proves by a preponderance of the evidence that the acreage was historically irrigated. ARM 36.12.1902(16). In the alternative an Applicant may present its own evidence of historic beneficial use. In this case Applicant has elected to proceed under ARM 36.12.1902. (FOF Nos.14-15).

74. If an Applicant seeks more than the historic consumptive use as calculated by ARM 36.12.1902(16), the Applicant bears the burden of proof to demonstrate the amount of historic consumptive use by a preponderance of the evidence. The actual historic use of water could be less than the optimum utilization represented by the calculated duty of water in any particular case. *E.g.*, *Application for Water Rights in Rio Grande County*, 53 P.3d 1165 (Colo., 2002) (historical use must be quantified to ensure no enlargement); *In the Matter of Application to Change Water Right No. 41H 1223599 by MGRR #1, LLC.*; *Orr v. Arapahoe Water and Sanitation Dist.*, 753 P.2d 1217, 1223-1224 (Colo., 1988) (historical use of a water right could very well be less than the duty of water); *Weibert v. Rothe Bros., Inc.*, 200 Colo. 310, 317, 618 P.2d 1367, 1371 - 1372 (Colo. 1980) (historical use could be less than the optimum utilization "duty of water").

75. Based upon the Applicant's evidence of historic use, the Applicant has proven by a preponderance of the evidence the historic use of 76M 30048497 to be a diverted volume of

208.15 AF, a historically consumed volume of 19.5 AF, and flow rate of 359.04 GPM. (FOF Nos. 14-17).

76. Based upon the Applicant's comparative analysis of historic water use and return flows to water use and return flows under the proposed change, the Applicant has proven that the proposed change in appropriation right will not adversely affect the use of the existing water rights of other persons or other perfected or planned uses or developments for which a permit or certificate has been issued or for which a state water reservation has been issued. Section 85-2-402(2)(a), MCA. (FOF Nos. 18-38).

BENEFICIAL USE

77. A change Applicant must prove by a preponderance of the evidence the proposed use is a beneficial use. Sections 85-2-102(4) and -402(2)(c), MCA. Beneficial use is and has always been the hallmark of a valid Montana water right: "[T]he amount actually needed for beneficial use within the appropriation will be the basis, measure, and the limit of all water rights in Montana . . ." McDonald, 220 Mont. at 532, 722 P.2d at 606. The analysis of the beneficial use criterion is the same for change authorizations under §85-2-402, MCA, and new beneficial permits under §85-2-311, MCA. ARM 36.12.1801. The amount of water that may be authorized for change 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 (Mont. 1st Jud. Dist. Ct.) (2003) (*affirmed on other grounds*, 2005 MT 60, 326 Mont. 241, 108 P.3d 518); *Worden v. Alexander*, 108 Mont. 208, 90 P.2d 160 (1939); *Allen v. Petrick*, 69 Mont. 373, 222 P. 451(1924); *Sitz Ranch v. DNRC*, DV-10-13390,, *Order Affirming DNRC Decision*, Pg. 3 (Mont. 5th Jud. Dist. Ct.) (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); *Toohey v. Campbell*, 24 Mont. 13, 60 P. 396 (1900) ("The policy of the law is to prevent a person from acquiring exclusive control of a stream, or any part thereof, not for present and actual beneficial use, but for mere future speculative profit or advantage, without regard to existing or contemplated beneficial uses. He is restricted in the amount that he can appropriate to the quantity needed for such beneficial purposes."); § 85-2-312(1)(a), MCA (DNRC is statutorily prohibited from issuing a permit for more water than can be beneficially used).

78. The Applicant proposes to use water for instream flow which is a recognized beneficial use. Section 85-2-102(5), MCA. The Applicant has proven by a preponderance of the evidence instream flow is a beneficial use and that 208.15 AF of diverted volume and 359.04 GPM flow

rate of water requested is the amount needed to sustain the beneficial use. Section 85-2-402(2)(c), MCA (FOF Nos. 39-51).

ADEQUATE MEANS OF DIVERSION

79. Pursuant to § 85-2-402 (2)(b), MCA, the Applicant is not required to prove that the proposed means of diversion, construction, and operation of the appropriation works are adequate because this application involves a temporary change in appropriation right for instream flow pursuant to § 85-2-408 MCA.

POSSESSORY INTEREST

80. Pursuant to § 85-2-402(2)(d), MCA, the applicant is not required to prove 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 because this application involves a temporary change in appropriation right for instream flow pursuant to § 85-2-408 MCA.

PRELIMINARY DETERMINATION

Subject to the terms and analysis in this Preliminary Determination Order, the Department preliminarily determines that this Application to Change Water Right No. 76M 30171923 should be GRANTED subject to the following.

The Department determines the Applicant may temporarily change the POD, POU and purpose of use for Statement of Claim 76M 30048497. The Applicant proposes to retire the historical POD and POU. The proposed change is temporary for a period of ten years as described in § 85-2-408, MCA. The proposed purpose is instream flow to benefit fishery resources. The proposed POU is a protected reach of Sixmile Creek from this historical POD in the SWSNW Section 7, Township 15 North, Range 21 West, Missoula County, approximately 1.12 miles downstream to the next diversion on the creek. This reach would encompass the proposed POD's and POU's, more specifically being the S2NE, SESENW, E2NESW, SWNESW, and NWSESW Section 12, Township 15 North, Rane 22 West. The period of use will remain April 1 through October 31 annually.

If granted, the following conditions would be added to the water right to satisfy the additional criteria for a temporary change to instream flow:

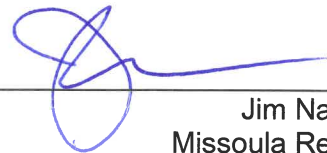
THE APPLICANT OR IT'S DESIGNEE SHALL MEASURE THE PROTECTED REACH OF SIXMILE CREEK BY TAKING FLOW MEASUREMENTS AT THE LEBERT – BISSONETTE DITCH HEADGATE WHICH IS LOCATED IN THE SWSNW, SEC 7, TWP 15N, RGE 21W,

MISSOULA COUNTY. MEASUREMENTS WILL BE TAKEN MONTHLY FROM JUNE THROUGH SEPTEMBER. THIS CHANGE AUTHORIZATION, ALLOWS FOR A CALL FOR WATER FROM UPSTREAM JUNIOR SIXMILE CREEK WATER USERS WHEN THE STREAM FLOW MEASURED ON SIXMILE CREEK BY THE APPLICANT OR IT'S DESIGNEE FALLS BELOW 2.05 CFS WITHIN THE AFOREMENTIONED TIMEFRAME. THE RECORDED FLOW RATE MEASUREMENTS MUST BE SENT TO THE DNRC MISSOULA REGIONAL OFFICE BY NOVEMBER 30 EACH YEAR DURING THE TEMPORARY CHANGE AUTHORIZATION.

NOTICE

The Department will provide public notice of this Application and the Department's Preliminary Determination to Grant pursuant to § 85-2-307, MCA. The Department will set a deadline for objections to this Application pursuant to §§ 85-2-307, and -308, MCA. If this Application receives a valid objection, it will proceed to a contested case proceeding pursuant to Title 2, chapter 4, part 6, MCA, and § 85-2-309, MCA. If this Application receives no valid objection or all valid objections are unconditionally withdrawn, the Department will grant this Application as herein approved. If this Application receives a valid objection(s) and the valid objection(s) are conditionally withdrawn, the Department will consider the proposed condition(s) and grant the Application with such conditions as the Department decides necessary to satisfy the applicable criteria. E.g., §§ 85-2-310, -312, MCA.

DATED this 11th day of June, 2026.



Jim Nave, Manager
Missoula Regional Office
Montana Department of Natural Resources and Conservation

CERTIFICATE OF SERVICE

This certifies that a true and correct copy of the PRELIMINARY DETERMINATION TO GRANT was served upon all parties listed below on this 11th day of June, 2026, by first class United States mail.

LEE YELIN
5890 KERR DR
MISSOULA, MT 59803



Alex Dagleish
Water Conservation Specialist
Missoula Regional Office
Alexander.dagleish@mt.gov | (406) 542-5886

Public Notice for Objections

- **Public Notice for Objections Package**
 - Notice Area List
 - Notice Area Map
 - Form Checklist
 - PN- Letter to applicant
 - PN- Letter to editor
 - PN- Certificate of service
 - PN- Invoice & tear sheet
 - PN- Return mail
 - Objection Files & associated documents

Public Notice for Objections

OBJECTION NOTICE AREA

Application No. **76M 30171923**

Regional Office # **09**

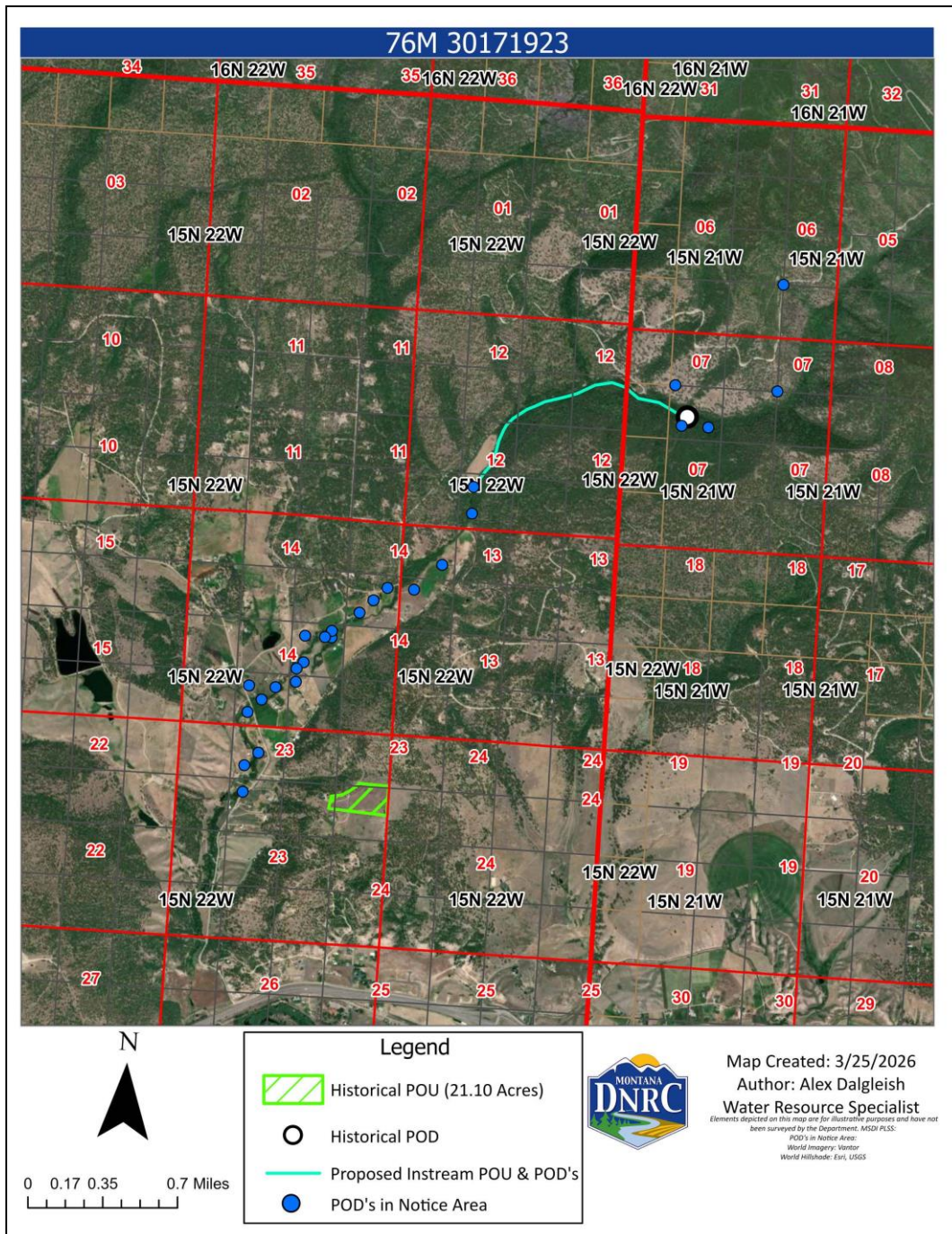
Applicant's Name **Lee Yelin**

Indian Reservation Yes No If yes, Reservation _____

Irrigation District Yes No If yes, District _____

Specialist **Alex Dalgleish**

Date **6/11/2026**



Map showing Applicant's historic and proposed POU and water right POD's in Notice Area

Water Right Owner	Water Right # (Basin, ID, and Number)
Applicant: Lee Yelin	76M 30171923
1CFC CLARK FORK COALITION	Missoula Regional Office Standard Contacts
1DSL MONTANA BOARD OF LAND COMMISSIONER	
1FWP DEPT OF FISH WILDLIFE & PARKS	
1NWE NORTHWESTERN ENERGY	
1PPL PPL MONTANA LLC	
1TUL MT TROUT UNLIMITED	
1WQB DEPT OF ENVIRONMENTAL QUALITY	
1WWP AVISTA CORP	
2BIA BUREAU OF INDIAN AFFAIRS	
2FWP DEPT OF FISH WILDLIFE & PARKS	
8LNF LOLO NATIONAL FOREST	
9MSL DEPT OF NATURAL RESOURCES & CONSERVATION	
9USF US FOREST SERVICE	
MISSOULIAN	
ADAM D STAGG; TIA R STAGG	76M 38769 00
ANDREW M BAIADY	76M 17123 00
ARKELLE HAGAN	76M 110506 00
	76M 110505 00
BARBARA G SIMS; BRUCE D SIMS	76M 149137 00
BJORN NABOZNEY; TAMARA NABOZNEY	76M 131029 00
BRENDA K DUDIK; JOHN DUDIK	76M 30048498
CHARLOTTE J SIEVERS; RALPH E SIEVERS	76M 116756 00
CHRISTOPHER J SIEGLER; JEANNIE P SIEGLER	76M 107929 00
	76M 107928 00
DALE E FREY; ELECTRA A FREY; ANN M HADLOW	76M 149707 00
DAVID W WHEAT; JUDY A WHEAT	76M 99249 00
DONALD K DESILVA; LYNDSEY K DESILVA	76M 12686 00
GLACIER FAMILY TRUST DATED NOVEMBER 17, 2020	76M 149079 00
	76M 149081 00
	76M 149080 00
HEATHER BRITTON; KENNETH A BRITTON	76M 150380 00
HINES, RONALD & JOYCE LIVING TRUST	76M 46937 00
JASON WILLIAMS; KELLEY D WILLIAMS	76M 107838 00
JESSICA A FRANK; ROBERT J FRANK	76M 133474 00
	76M 30122806
JOHN ZEIMET; ROXANNE ZEIMET	76M 149725 00

JON T LEE; ROSE, COLLIN & KAREN LIVING TRUST DATED 9/26/2024; IVIE L WILSON; JOHN R WILSON	76M 111229 00
	76M 111228 00
JOY BLOECHL; JEROME R TAUTGES	76M 3688 00
JUANITA M HIRSCHI; OLIVER G HIRSCHI; ARTHUR J SCHEFFER; CHRISTINE E SCHEFFER; DENNIS W SCHEFFER; EDGAR J SCHEFFER; PATRICIA L SCHEFFER	76M 99193 00
KLUCEWICH, JOSH & LAUREN FAMILY TRUST	76M 30066052
	76M 30066051
LACEY FARNES; RICHARD FARNES	76M 111189 00
LANE H LONG; PAUL S LONG	76M 34977 00
LANE H LONG; PAUL S LONG; BRIAN L METHER; RENEE MINJARES; RORY MINJARES; JASON WILLIAMS; KELLEY D WILLIAMS	76M 30048499
LARA E GRAN; TRAVIS L GRAN	76M 43218 00
LAURA J BOUDREAUX; WILLIAM J BOUDREAUX	76M 30122665
LAURA R GRAPENSTETER	76M 6798 00
LAURA R GRAPENSTETER; DIANA M HARRIS; SHELDON C HARRIS; JENNIFER R RICHARDSON; RORY R RICHARDSON	76M 6799 00
	76M 6800 00
LEE YELIN	76M 30048497
LEROY R KINCEL; LINDA R KINCEL; CHARLOTTE J SIEVERS; RALPH E SIEVERS; LEE YELIN	76M 116758 00
LINDA S MCCORMICK; WILLIAM G MCCORMICK	76M 64552 00
LUCAS M MCIVER; NANCY A MCIVER REVOCABLE TRUST	76M 21981 00
MICHAEL OLIVER	76M 30066054
	76M 30066053
MOLLY A REYNOLDS	76M 110488 00
MONTANA STATE BOARD OF LAND COMMISSIONERS	76M 214354 00
	76M 49886 00
OWNERS	WR_NUMBER
PHYLLIS J BALLARD	76M 30119088
PHYLLIS J BALLARD; ANASTASIA P METHER; BRIAN L METHER	76M 111333 00

RENEE MINJARES; RORY MINJARES; MELISSA J WICKUM; RYAN L WICKUM	76M 20080 00
	76M 20081 00
ROBYNN M MARSH; RONALD MARSH	76M 131085 00
RORY R RICHARDSON	76M 103805 00
	76M 103804 00
	76M 103806 00
THOMAS O CARLSEN	76M 30135999
	76M 17877 00
USA (DEPT OF AGRICULTURE FOREST SERVICE)	76M 30070859
PUBLISHED: MISSOULIAN	
REMARKS: Legal land description of notice area: Sections 6 and 7 of Township 15N, Range 21W, Sections 12, 13, 14 and 23 of Township 15N, Range 22W, all in Missoula County	

**PUBLIC NOTICE
PROCESS COMPLETE**

Application No: 76M 30171923 Lee Yelin

Regional or Central Office

- | | | |
|---|--|--|
| ▶ <input type="checkbox"/> Billings | ▶ <input type="checkbox"/> Havre | ▶ <input type="checkbox"/> Lewistown |
| ▶ <input type="checkbox"/> Bozeman | ▶ <input type="checkbox"/> Helena | ▶ <input checked="" type="checkbox"/> Missoula |
| ▶ <input type="checkbox"/> Glasgow | ▶ <input type="checkbox"/> Kalispell | |
| ▶ <input type="checkbox"/> Central Office - Bozeman | ▶ <input type="checkbox"/> Central Office - Helena | |

No Comments Received - Materials Included (Check box if included)

Do not
return if any
of this
information
is missing.

- Public Notice - Comment Period
- Certificate of Service
- Letter to Applicant/Consultant or Attorney
- Letter to Newspaper
- Newspaper Invoice
- Affidavit and Certification of Publication
- Newspaper Tear Sheet
- Comments Received
- Copy of Return Mail

- 600 (PERMIT) OR 606 (CHANGE)
- 626 RENEW TEMPORARY CHANGE AUTHORIZATION
- 644 REPLACEMENT POD
- OTHER

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: MAY 14, 2026. PUBLIC COMMENTS MUST BE FILED ON A PUBLIC COMMENT FORM, FORM 654, AND MUST BE RECEIVED BY THE STATED DEADLINE. THE FORM IS AVAILABLE ON THE DEPARTMENT'S WEBSITE OR CAN BE OBTAINED FROM ANY WATER RESOURCES REGIONAL OFFICE. MAIL PAPER COPIES OF THE COMPLETED FORM TO: DNRC WATER RIGHTS BUREAU, PO BOX 201601, HELENA, MT 59620-1601. SUBMIT ELECTRONIC COPIES OF THE COMPLETED FORM TO: DNRCWATERRIGHTSCOMMENTOBJECTION@MT.GOV. 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 2705 SPURGIN RD, BLDG C, PO BOX 5004, MISSOULA, MT 59804-5004 FAX: 406-542-5899 PHONE: 406-721-4284.

Application Number: 76M 30171923
Applicant: LEE YELIN
5890 KERR DR
MISSOULA, MT 59803 3028

WATER RIGHT NUMBER(S) BEING CHANGED

<u>Water Right Type</u>	<u>Water Right Number</u>	<u>Priority Date</u>
STATEMENT OF CLAIM	76M 30048497	APRIL 28, 1921
Historical Flow Rate: 359.04 GPM	Historical Consumptive Volume: 19.50 AC-FT	
	Historical Diverted Volume: 208.15 AC-FT	

PAST USE OF WATER

PRIOR TEMPORARY CHANGE AUTHORIZATION 76M 30049150 WAS ISSUED BY THE DEPARTMENT IN 2011 FOR A PERIOD OF 10 YEARS . CLAIM 76M 30048497 WAS SPLIT FROM PARENT CLAIM 76M 116758 00. THE PARENT CLAIM AUTHORIZED A FLOW RATE OF 2.80 CFS DIVERTED FROM SIX MILE CREEK USING THE LEBERT-BISONETTE DITCH TO IRRIGATE 58 ACRES FROM APRIL 1 TO OCTOBER 31 ANNUALLY. THE PLACE OF USE IS LOCATED IN SECTION 23, T15N, R22W, MISSOULA COUNTY.

PROPOSED CHANGE

THIS AUTHORIZATION ALLOWS THE APPLICANT TO TEMPORARILY CHANGE THE PURPOSE, PLACE OF USE AND POINT OF DIVERSION FROM IRRIGATION TO INSTREAM FLOW FOR FISHERIES IN SIX MILE CREEK. THE HISTORIC IRRIGATION FLOW RATE AND DIVERTED VOLUME OF 359.04 GPM AND 208.15 AF WILL BE PROTECTED AT THE ORIGINAL HEADGATE FROM APRIL 1 TO OCTOBER 31 ANNUALLY. THE HISTORIC FLOW RATE AND CONSUMED VOLUME OF 359.04 GPM AND 19.5 AF WILL BE PROTECTED IN A REACH OF SIX MILE CREEK FROM THE ORIGINAL HEADGATE TO A LOCATION DOWNSTREAM 1.2 MILES IN THE NWSESW SEC 12, T15N, R22W, FROM APRIL 1 TO OCTOBER 31 ANNUALLY. THE HISTORIC DITCH WILL BE DECOMMISSIONED AND THE PLACE OF USE NO LONGER IRRIGATED. THE TEMPORARY CHANGE IS FOR A PERIOD OF 10 YEARS.

ADDITIONAL INFORMATION

THE APPLICANT OR IT'S DESIGNEE SHALL MEASURE THE PROTECTED REACH OF SIXMILE CREEK BY TAKING FLOW MEASUREMENTS AT THE LEBERT – BISSONETTE DITCH HEADGATE WHICH IS LOCATED IN THE SWSNW, SEC 7, TWP 15N, RGE 21W, MISSOULA COUNTY. MEASUREMENTS WILL BE TAKEN MONTHLY FROM JUNE THROUGH SEPTEMBER. THIS CHANGE AUTHORIZATION, ALLOWS FOR A CALL FOR WATER FROM UPSTREAM JUNIOR SIXMILE CREEK WATER USERS WHEN THE STREAM FLOW MEASURED ON SIXMILE CREEK BY THE APPLICANT OR IT'S DESIGNEE FALLS BELOW 2.05 CFS WITHIN THE AFOREMENTIONED TIMEFRAME. THE RECORDED FLOW RATE MEASUREMENTS MUST BE SENT TO THE DNRC MISSOULA REGIONAL OFFICE BY NOVEMBER 30 EACH YEAR DURING THE TEMPORARY CHANGE AUTHORIZATION.

PUBLISHED IN: MISSOULIAN ON APRIL 14, 2026.

LAURA R GRAPENSTETER
PO BOX 233
FRENCHTOWN MT 59834 0233

ANN M HADLOW
19710 SIX MILE RD
HUSON MT 59846 9601

ARKELLE HAGAN
PO BOX 142
FRENCHTOWN MT 59834 0142

SHELDON C HARRIS
DIANA M HARRIS
2036 BRIARWOOD DR
LAUREL MS 39440 2118

HINES, RONALD & JOYCE
LIVING TRUST
RONALD L & JOYCE L HINES
TRUSTEES
18245 SIX MILE RD
HUSON MT 59846 9747

LINDA R KINCEL
LEROY R KINCEL
20010 CONIFER DR
HUSON MT 59846

KLUCEWICH, JOSH & LAUREN
FAMILY TRUST
% KLUCEWICH JOSH B &
LAUREN M TRUSTEES
19955 NINE MILE RD
HUSON MT 59846

JON T LEE
PO BOX 2157
MISSOULA MT 59806 2157

PAUL S LONG JR
LANE H LONG
24765 BROOKVIEW DR
HUSON MT 59846 9771

RONALD MARSH
20520 SIX MILE RD
HUSON MT 59846 9755

ROBYNN M MARSH
PO BOX 307
FRENCHTOWN MT 59834

WILLIAM G MCCORMICK
LINDA S MCCORMICK
18415 SIX MILE RD
HUSON MT 59846 9748

LUCAS M MCIVER
19550 SIX MILE RD
HUSON MT 59846

BRIAN L METHER
ANASTASIA P METHER
24555 BROOKVIEW
HUSON MT 59846

RORY MINJARES
RENEE MINJARES
18805 SIX MILE RD
HUSON MT 59846 9749

MONTANA STATE BOARD OF
LAND COMMISSIONERS
FORESTRY AND TRUST LANDS
DIVISION
PO BOX 201601
HELENA MT 59620 1601

VICKI MUNDLIN SMITH
PO BOX 186
FRENCHTOWN MT 59834 0186

TAMARA NABOZNEY
BJORN NABOZNEY
18450 SIX MILE RD
HUSON MT 59846

NANCY A MCIVER REVOCABLE
TRUST
%MCIVER, NANCY A, TRUSTEE
1014 TAYLOR ST
MISSOULA MT 59802 4843

MICHAEL OLIVER
18575 SIX MILE RD
HUSON MT 59846

MOLLY A REYNOLDS
24275 EASTGATE DR
HUSON MT 59846

RORY R RICHARDSON
JENNIFER R RICHARDSON
24544 BROOKVIEW DR
HUSON MT 59846 9558

ROSE, COLLIN & KAREN LIVING
TRUST DATED 9/26/2024
99 ASPENWOOD DR
BOZEMAN MT 59718 6619

CHRISTINE E SCHEFFER
19245 NINE MILE ROAD
HUSON MT 59846

EDGAR J SCHEFFER
19490 W NINE MILE RD
HUSON MT 59846 9510

PATRICIA L SCHEFFER
DENNIS W SCHEFFER
19710 NINE MILE RD
HUSON MT 59846

ARTHUR J SCHEFFER JR
19746 NINE MILE RD
HUSON MT 59846 9542

JEANNIE P SIEGLER
CHRISTOPHER J SIEGLER
19475 CONIFER DR
HUSON MT 59846 9772

RALPH E SIEVERS
CHARLOTTE J SIEVERS
PO BOX 340
POLSON MT 59860 0340

BRUCE D SIMS
BARBARA G SIMS
19380 CONIFER DR
HUSON MT 59846

BRENT R SMITH
PO BOX 186
FRENCHTOWN MT 59834 0186

TIA R STAGG
ADAM D STAGG
20500 SIX MILE RD
HUSON MT 59846

JEROME R TAUTGES
24300 EASTGATE DR
HUSON MT 59846

USA (DEPT OF AGRICULTURE
FOREST SERVICE)
WATER RIGHTS PROGRAM
MANAGER, NORTHERN REGION
26 FORT MISSOULA RD
MISSOULA MT 59804 7203

JUDY A WHEAT
DAVID W WHEAT
19665 SIX MILE ROAD
HUSON MT 59846

RYAN L WICKUM
MELISSA J WICKUM
18823 SIX MILE RD
HUSON MT 59846 9749

KELLEY D WILLIAMS
JASON WILLIAMS
24509 BROOKVIEW DR
HUSON MT 59846

JOHN R WILSON
IVIE L WILSON
PO BOX 957
FRENCHTOWN MT 59834

LEE YELIN
5890 KERR DR
MISSOULA MT 59803 3028

ROXANNE ZEIMET
JOHN ZEIMET
24375 EASTGATE
HUSON MT 59846

DEPT OF FISH WILDLIFE &
PARKS
ATTN: AMY GROEN
via email at amy.groen@mt.gov

THE MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

GOVERNOR GREG GIANFORTE



DNRC DIRECTOR AMANDA KASTER

DNRC Water Resources Division
1424 9th Ave
PO Box 201601
Helena MT 59620 1601
(406) 444-6601
www.dnrc.mt.gov

Emailed on 4/3/2026

April 3, 2026

LEE YELIN
5890 KERR DR
MISSOULA MT 59803-3028
waterrightsinc@gmail.com

RE: Public Notice of Public Comment Period for Application to Change a Water Right no. 76M-30171923

Dear Applicant/Consultant:

Please review the enclosed water right Public Notice of Public Comment Period. It will be published in the newspaper on the date indicated on the Notice. If you find an error, please call or e-mail me immediately at the contact information below and provide your name, water right application number, and a telephone number.

On the date of publication, please review the newspaper publication against this notice. If there is an error, or the paper fails to publish the notice, please call us. An uncorrected error may require the application to be re-advertised, and the process lengthened.

Sincerely,

A handwritten signature in blue ink, appearing to read "Karson", with a long, sweeping flourish extending to the right.

Karson Quinn, Compliance Technician
DNRC, Water Rights Bureau
(406) 444-1356; karson.quinn@mt.gov

Enclosure: Public Notice of Public Comment Period



DNRC.MT.GOV



INTERIM AD DRAFT

This is the proof of your ad scheduled to run in **Missoulian** on the dates indicated below. If changes are needed, please contact us prior to deadline at **(406) 523-5200**.

Notice ID: 75BI3ARFId2ZnHP7ztRH | **Proof Updated: Apr. 07, 2026 at 08:36am MDT**
Notice Name: Public Notice 76M-30171923

This is not an invoice. Below is an estimated price, and it is subject to change. You will receive an invoice with the final price upon invoice creation by the publisher.

FILER	FILING FOR
Karson Quinn	Missoulian
karson.quinn@mt.gov	
(406) 444-6615	

Columns Wide:	2	Ad Class:	Legals
Total Column Inches:	16.59		
Number of Lines:	84		

04/11/2026: General Legal		78.00
	Subtotal	\$78.00
	Tax	\$0.00
	Processing Fee	\$0.00
	Total	\$78.00

See Proof on Next Page

Public Notice 76M-30171923

**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 <http://dnrc.nrt.gov/Water-Resources/Water-Rights/application-status-environmental-assessments/>.

PUBLIC COMMENT DEADLINE: MAY 14, 2026. PUBLIC COMMENTS MUST BE FILED ON A PUBLIC COMMENT FORM, FORM 654, AND MUST BE RECEIVED BY THE STATED DEADLINE. THE FORM IS AVAILABLE ON THE DEPARTMENT'S WEBSITE OR CAN BE OBTAINED FROM ANY WATER RESOURCES REGIONAL OFFICE. MAIL PAPER COPIES OF THE COMPLETED FORM TO: DNRC WATER RIGHTS BUREAU, PO BOX 201601, HELENA, MT 59820-1601. SUBMIT ELECTRONIC COPIES OF THE COMPLETED FORM TO: DNRCWATERRIGHTSCOMMENTOBJECTION@MT.GOV. 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 2705 SPURGIN RD, BLDG C, PO BOX 5004, MISSOULA, MT 59804-5004 FAX: 406-542-5899 PHONE: 406-721-4284.

Application Number: 76M 30171923

Applicant:

LEE YELIN

5890 KERR DR

MISSOULA, MT 59803 3028

WATER RIGHT NUMBER(S) BEING CHANGED

Water Right Type: STATEMENT OF CLAIM **Water Right Number:** 76M

30048497 Priority Date: APRIL 28, 1921

Historical Flow Rate: 359.04 GPM **Historical Consumptive Volume:** 19.50

AC-FT

Historical Diverted Volume: 208.15 AC-FT

PAST USE OF WATER

PRIOR TEMPORARY CHANGE AUTHORIZATION 76M 30049150 WAS ISSUED BY THE DEPARTMENT IN 2011 FOR A PERIOD OF 10 YEARS. CLAIM 76M 30048497 WAS SPLIT FROM PARENT CLAIM 76M 116758 00. THE PARENT CLAIM AUTHORIZED A FLOW RATE OF 2.80 CFS DIVERTED FROM SIX MILE CREEK USING THE LEBERT-BISONETTE DITCH TO IRRIGATE 58 ACRES FROM APRIL 1 TO OCTOBER 31 ANNUALLY. THE PLACE OF USE IS LOCATED IN SECTION 23, T15N, R22W, MISSOULA COUNTY.

PROPOSED CHANGE

THIS AUTHORIZATION ALLOWS THE APPLICANT TO TEMPORARILY CHANGE THE PURPOSE, PLACE OF USE AND POINT OF DIVERSION FROM IRRIGATION TO INSTREAM FLOW FOR FISHERIES IN SIX MILE CREEK. THE HISTORIC IRRIGATION FLOW RATE AND DIVERTED VOLUME OF 359.04 GPM AND 208.15 AF WILL BE PROTECTED AT THE ORIGINAL HEADGATE FROM APRIL 1 TO OCTOBER 31 ANNUALLY. THE HISTORIC FLOW RATE AND CONSUMED VOLUME OF 359.04 GPM AND 19.5 AF WILL BE PROTECTED IN A REACH OF SIX MILE CREEK FROM THE ORIGINAL HEADGATE TO A LOCATION DOWNSTREAM 1.2 MILES IN THE NWSEW SEC 12, T15N, R22W, FROM APRIL 1 TO OCTOBER 31 ANNUALLY. THE HISTORIC DITCH WILL BE DECOMMISSIONED AND THE PLACE OF USE NO LONGER IRRIGATED. THE TEMPORARY CHANGE IS FOR A PERIOD OF 10 YEARS.

ADDITIONAL INFORMATION

THE APPLICANT OR IT'S DESIGNEE SHALL MEASURE THE PROTECTED REACH OF SIXMILE CREEK BY TAKING FLOW MEASUREMENTS AT THE LEBERT - BISSONETTE DITCH HEADGATE WHICH IS LOCATED IN THE SWSNW, SEC 7, TWP 15N, RGE 21W, MISSOULA COUNTY. MEASUREMENTS WILL BE TAKEN MONTHLY FROM JUNE THROUGH SEPTEMBER. THIS CHANGE AUTHORIZATION, ALLOWS FOR A CALL FOR WATER FROM UPSTREAM JUNIOR SIXMILE CREEK WATER USERS WHEN THE STREAM FLOW MEASURED ON SIXMILE CREEK BY THE APPLICANT OR IT'S DESIGNEE FALLS BELOW 2.05 CFS WITHIN THE AFOREMENTIONED TIMEFRAME. THE RECORDED FLOW RATE MEASUREMENTS MUST BE SENT TO THE DNRC MISSOULA REGIONAL OFFICE BY NOVEMBER 30 EACH YEAR DURING THE TEMPORARY CHANGE AUTHORIZATION.

PUBLISHED IN: MISSOULIAN ON APRIL 14, 2026 .

April 11, 2026 ***** MMAXLP



OFFICIAL AD PROOF

This is the proof of your ad scheduled to run in **Missoulian** on the dates indicated below. If changes are needed, please contact us prior to deadline at **(406) 523-5200**.

Notice ID: 75BI3ARFId2ZnHP7ztRH | **Proof Updated: Apr. 07, 2026 at 08:41am MDT**
Notice Name: Public Notice 76M-30171923 | Publisher ID: COL-MT-402122

See Proof on Next Page

This is not an invoice. Below is an estimated price, and it is subject to change. You will receive an invoice with the final price upon invoice creation by the publisher.

FILER	FILING FOR
Karson Quinn	Missoulian
karson.quinn@mt.gov	
(406) 444-6615	

Columns Wide:	2	Ad Class: Legals
Total Column Inches:	16.4	
Number of Lines:	83	

04/11/2026: General Legal Notice	78.00
	Subtotal \$78.00
	Tax \$0.00
	Processing Fee \$0.00
	Total \$78.00

Public Notice 76M-30171923

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: MAY 14, 2026. PUBLIC COMMENTS MUST BE FILED ON A PUBLIC COMMENT FORM, FORM 654, AND MUST BE RECEIVED BY THE STATED DEADLINE. THE FORM IS AVAILABLE ON THE DEPARTMENT'S WEBSITE OR CAN BE OBTAINED FROM ANY WATER RESOURCES REGIONAL OFFICE. MAIL PAPER COPIES OF THE COMPLETED FORM TO: DNRC WATER RIGHTS BUREAU, PO BOX 201601, HELENA, MT 59620-1601. SUBMIT ELECTRONIC COPIES OF THE COMPLETED FORM TO: DNRCWATERRIGHTSCOMMENTOBJECTION@MT.GOV. 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 2705 SPURGIN RD, BLDG C, PO BOX 5004, MISSOULA, MT 59804-5004 FAX: 406-542-5899 PHONE: 406-721-4284.

Application Number: 76M 30171923

Applicant:

LEE YELIN

5890 KERR DR

MISSOULA, MT 59803 3028

WATER RIGHT NUMBER(S) BEING CHANGED

Water Right Type STATEMENT OF CLAIM Water Right Number 76M 30048497 Priority Date APRIL 28, 1921

Historical Flow Rate: 359.04 GPM Historical Consumptive Volume: 19.50 AC-FT

Historical Diverted Volume: 208.15 AC-FT

PAST USE OF WATER

PRIOR TEMPORARY CHANGE AUTHORIZATION 76M 30049150 WAS ISSUED BY THE DEPARTMENT IN 2011 FOR A PERIOD OF 10 YEARS. CLAIM 76M 30048497 WAS SPLIT FROM PARENT CLAIM 76M 11675800. THE PARENT CLAIM AUTHORIZED A FLOW RATE OF 2.60 CFS DIVERTED FROM SIX MILE CREEK USING THE LEBERT-BISSONETTE DITCH TO IRRIGATE 58 ACRES FROM APRIL 1 TO OCTOBER 31 ANNUALLY. THE PLACE OF USE IS LOCATED IN SECTION 23, T15N, R22W, MISSOULA COUNTY.

PROPOSED CHANGE

THIS AUTHORIZATION ALLOWS THE APPLICANT TO TEMPORARILY CHANGE THE PURPOSE, PLACE OF USE AND POINT OF DIVERSION FROM IRRIGATION TO INSTREAM FLOW FOR FISHERIES IN SIX MILE CREEK. THE HISTORIC IRRIGATION FLOW RATE AND DIVERTED VOLUME OF 359.04 GPM AND 208.15 AF WILL BE PROTECTED AT THE ORIGINAL HEADGATE FROM APRIL 1 TO OCTOBER 31 ANNUALLY. THE HISTORIC FLOW RATE AND CONSUMED VOLUME OF 359.04 GPM AND 19.5 AF WILL BE PROTECTED IN A REACH OF SIX MILE CREEK FROM THE ORIGINAL HEADGATE TO A LOCATION DOWNSTREAM 1.2 MILES IN THE NWSEW SEC 12, T15N, R22W, FROM APRIL 1 TO OCTOBER 31 ANNUALLY. THE HISTORIC DITCH WILL BE DECOMMISSIONED AND THE PLACE OF USE NO LONGER IRRIGATED. THE TEMPORARY CHANGE IS FOR A PERIOD OF 10 YEARS.

ADDITIONAL INFORMATION

THE APPLICANT OR IT'S DESIGNEE SHALL MEASURE THE PROTECTED REACH OF SIXMILE CREEK BY TAKING FLOW MEASUREMENTS AT THE LEBERT - BISSONETTE DITCH HEADGATE WHICH IS LOCATED IN THE SWSNW, SEC 7, TWP 15N, RGE 21W, MISSOULA COUNTY. MEASUREMENTS WILL BE TAKEN MONTHLY FROM JUNE THROUGH SEPTEMBER. THIS CHANGE AUTHORIZATION, ALLOWS FOR A CALL FOR WATER FROM UPSTREAM JUNIOR SIXMILE CREEK WATER USERS WHEN THE STREAM FLOW MEASURED ON SIXMILE CREEK BY THE APPLICANT OR IT'S DESIGNEE FALLS BELOW 2.05 CFS WITHIN THE AFOREMENTIONED TIMEFRAME. THE RECORDED FLOW RATE MEASUREMENTS MUST BE SENT TO THE DNRC MISSOULA REGIONAL OFFICE BY NOVEMBER 30 EACH YEAR DURING THE TEMPORARY CHANGE AUTHORIZATION.

April 11, 2026 COL-MT-402122 MNAXLP

Missoulian

Invoice

Column Software PBC
PO Box 208098
Dallas, TX 75320-8098

help@column.us

Invoice number 9B7B3BAA-0081
Date of issue Apr 7, 2026
Date due Jun 1, 2026
Notice Id 75BI3ARFId2ZnHP7ztRH
Publisher Missoulian

Bill to
DNRC - Water Rights Bureau

\$78.00 due June 1, 2026



=== Notes ===

Notice Name: Public Notice 76M-30171923
Order Number: COL-MT-402122

=== How to pay this invoice ===

This publisher accepts online payment via credit or debit card, or ACH bank transfers. Please click [here](#) to pay online. Select organizations may also pay via check. If you would like to pay by check, please include your invoice number 9B7B3BAA-0081 on the memo and include a printed copy of your Invoice PDF. Please make the check payable to Column Software, PBC and mail to the address above. Please note that processing will take at least 7 business days and confirm any upfront payment requirements for your notice. Any check formatting errors may increase processing time or prevent processing. Please note that, once paid, the merchant name on your billing statements will be Column Software PBC.

Description	Qty	Unit price	Amount
04/11/2026: General Legal Notice	1	78.00	78.00
		Subtotal	\$78.00
		Tax	0.00
		Amount due	\$78.00

Org #	4401
Date:	4/23/2026
Amount	78.00
Approval	
Approval	

Pay here: <https://www.column.us/invoices/i6AY8LMEGlgb46myySWv/pay>

Questions? Visit help.column.us

9B7B3BAA-0081 - Page 1 of 1

Public Notice 76M-30171923

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: MAY 14, 2026. PUBLIC COMMENTS MUST BE FILED ON A PUBLIC COMMENT FORM, FORM 654, AND MUST BE RECEIVED BY THE STATED DEADLINE. THE FORM IS AVAILABLE ON THE DEPARTMENT'S WEBSITE OR CAN BE OBTAINED FROM ANY WATER RESOURCES REGIONAL OFFICE. MAIL PAPER COPIES OF THE COMPLETED FORM TO: DNRC WATER RIGHTS BUREAU, PO BOX 201601, HELENA, MT 59620-1601. SUBMIT ELECTRONIC COPIES OF THE COMPLETED FORM TO: DNRCWATERRIGHTSCOMMENTOBJECTION@MT.GOV . 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 2705 SPURGIN RD, BLDG C, PO BOX 5004, MISSOULA, MT 59804-5004 FAX: 406-542-5899 PHONE: 406-721-4284.

Application Number: 76M 30171923

Applicant:

LEE YELIN

5890 KERR DR

MISSOULA, MT 59803 3028

WATER RIGHT NUMBER(S) BEING CHANGED

Water Right Type STATEMENT OF CLAIM **Water Right Number** 76M 30048497 **Priority Date** APRIL 28, 1921

Historical Flow Rate: 359.04 GPM **Historical Consumptive Volume:** 19.50 AC-FT

Historical Diverted Volume: 208.15 AC-FT

PAST USE OF WATER

PRIOR TEMPORARY CHANGE AUTHORIZATION 76M 30049150 WAS ISSUED BY THE DEPARTMENT IN 2011 FOR A PERIOD OF 10 YEARS . CLAIM 76M 30048497 WAS SPLIT FROM PARENT CLAIM 76M 116758 00. THE PARENT CLAIM AUTHORIZED A FLOW RATE OF 2.80 CFS DIVERTED FROM SIX MILE CREEK USING THE LEBERTBISONETTE DITCH TO IRRIGATE 58 ACRES FROM APRIL 1 TO OCTOBER 31 ANNUALLY. THE PLACE OF USE IS LOCATED IN SECTION 23, T15N, R22W, MISSOULA COUNTY.

PROPOSED CHANGE

THIS AUTHORIZATION ALLOWS THE APPLICANT TO TEMPORARILY CHANGE THE PURPOSE, PLACE OF USE AND POINT OF DIVERSION FROM IRRIGATION TO INSTREAM FLOW FOR FISHERIES IN SIX MILE CREEK. THE HISTORIC IRRIGATION FLOW RATE AND DIVERTED VOLUME OF 359.04 GPM AND 208.15 AF WILL BE PROTECTED AT THE ORIGINAL HEADGATE FROM APRIL 1 TO OCTOBER 31 ANNUALLY. THE HISTORIC FLOW RATE AND CONSUMED VOLUME OF 359.04 GPM AND 19.5 AF WILL BE PROTECTED IN A REACH OF SIX MILE CREEK FROM THE ORIGINAL HEADGATE TO A LOCATION DOWNSTREAM 1.2 MILES IN THE NWSSEW SEC 12, T15N, R22W. FROM APRIL 1 TO OCTOBER 31 ANNUALLY. THE HISTORIC DITCH WILL BE DECOMMISSIONED AND THE PLACE OF USE NO LONGER IRRIGATED. THE TEMPORARY CHANGE IS FOR A PERIOD OF 10 YEARS.

ADDITIONAL INFORMATION

THE APPLICANT OR IT'S DESIGNEE SHALL MEASURE THE PROTECTED REACH OF SIXMILE CREEK BY TAKING FLOW MEASUREMENTS AT THE LEBERT - BISSONETTE DITCH HEADGATE WHICH IS LOCATED IN THE SWSSEW, SEC 7, TWP 15N, RGE 21W, MISSOULA COUNTY. MEASUREMENTS WILL BE TAKEN MONTHLY FROM JUNE THROUGH SEPTEMBER. THIS CHANGE AUTHORIZATION, ALLOWS FOR A CALL FOR WATER FROM UPSTREAM JUNIOR SIXMILE CREEK WATER USERS WHEN THE STREAM FLOW MEASURED ON SIXMILE CREEK BY THE APPLICANT OR IT'S DESIGNEE FALLS BELOW 2.05 CFS WITHIN THE AFOREMENTIONED TIMEFRAME. THE RECORDED FLOW RATE MEASUREMENTS MUST BE SENT TO THE DNRC MISSOULA REGIONAL OFFICE BY NOVEMBER 30 EACH YEAR DURING THE TEMPORARY CHANGE AUTHORIZATION.

April 11, 2026 COL-MT-402122 MNAXLP

Missoulian

AFFIDAVIT OF PUBLICATION

See Proof on Next Page

Missoulian
2291 W. Broadway
Missoula, Montana 59808
(406) 523-5200

State of Florida, County of Broward, ss:

Anjana Bhadoriya, being first duly sworn, deposes and says: That (s)he is a duly authorized signatory of Column Software, PBC, duly authorized agent of Missoulian, a newspaper of general circulation published that is a "legal newspaper" as that is published daily in the City of Missoula, in the County of Missoula, State of Montana, and has charge of the Advertisements thereof.

If this certification is for the State of Montana, I hereby certify that I have read sec. 18-7-204 and 18-7-205 MCA, and subsequent revisions, and declare that the price or rate charged the State of Montana for the publication for which claim is made in printed copy in the amount of \$78.00 is not in excess of the minimum rate charged any other advertiser for publication of advertisement, set in the same size type and published for the same number of insertions, further certify that this claim is correct and just in all respects, and that payment or credit has not been received.

PUBLICATION DATES: April. 11 2026

NOTICE ID: 75BI3ARFId2ZnHP7ztRH

PUBLISHER ID: COL-MT-402122

NOTICE NAME: Public Notice 76M-30171923

Publication Fee: \$78.00

Anjana Bhadoriya

(Signed)

VERIFICATION

State of Florida
County of Broward



SHERI SMITH
Notary Public - State of Florida

Commission # HH269383
Expires on May 31, 2026

Subscribed in my presence and sworn to before me on this: 04/13/2026

S. Smith

Notary Public
Notarized remotely online using communication technology via Proof.



The Montana Department of
**Natural Resources
& Conservation**

WATER RESOURCES DIVISION
1424 9TH AVENUE
PO BOX 201601
HELENA, MT 59620-1601

GREAT FALLS MT 59401

14 APR 2026 AM 2

FIRST CLASS



US POSTAGE PAID BY PTNEY BOWES



ZIP 59601 \$ 000.74⁰
02 7W
0008034893 APR 13 2026

✓
KQ

PN-76M-30171923
ELECTRA A FREY
DALE E FREY
17379 MT HIGHWAY 212
CHARLO MT 59824 9552

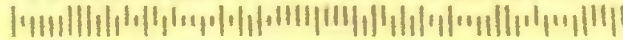
MTAIE 986 DE 1 0004/21/26

RETURN TO SENDER
NO SUCH NUMBER
UNABLE TO FORWARD

UTFK1: 9333510943

NSN
596201601

BC 59620160101 *3124-01363-14-23



Public Comments – Considered

76M 30171923 Lee Yelin

Commenter	Criteria commented on:
111 – Christopher J Siegler	Adverse Effect & Beneficial Use
112 – Travis L Gran	Adverse Effect & Possessory Interest

Public Comments
(Considered)



PUBLIC COMMENT ON A DRAFT PRELIMINARY DETERMINATION

§85-2-307, MCA
Form No. 654 (Revised 10/2025)

For Department Use Only

RECEIVED

MAY 08 2026

Received Digitally

DNRC-WRD

Instructions

Use this form to file a public comment about an application for a water use permit, change authorization, or forest service water reservation.

Use one form for each application about which you are filing a public comment. Individual water right owners must file separate public comments. **This form must be received on or before the deadline specified in the public notice.**

Submit form to:
Montana Department of Natural Resources and Conservation (DNRC)
Water Rights Bureau
1424 9th Avenue, PO Box 201601, Helena, MT 59620-1601

Electronic submissions may be sent to:
DNRCWATERRIGHTSCOMMENTOBJECTION@MT.GOV

Date Received 5/8/2026
Received By KQ
Comment # 111
Entered By KQ
Date 5/8/2026

1. Name of Commenter Christopher J and Jeannie P Siegler *Contact ID: 50086 Christopher Siegler*
Mailing Address 19475 Conifer Dr
City Huson State MT Zip 59846
Home Phone 406-626-5611 Other Phone 406-546-4800
Email: csiegler@montana.com

2. On which application are you filing a public comment? Application Number 76M 30171923
Applicant Name Lee Yellin

3. How do you have standing to file this public comment? A person has standing if his or her property, water rights, or interests would be adversely affected by the proposed appropriation. Explain your interest and how it would be adversely affected.
Our property, water rights and interests could be adversely affected by this application.

4. Will your water right be affected? If so, provide the water right number.

- (W) Statement of Claim No. _____
- (P) Permit to Appropriate Water No. _____
- (C) Certificate of Water Right No. 76M 107929-00; 76m 107928-00
- (D) Powder River Final Decree No. _____
- (M/R) Reservation of Water No. _____
- (E) Exempt Notice No. _____
- (F) Non-recorded Exempt Right (For a filing not on record with the DNRC, complete the information below).
 Type of Use Stock Domestic Date of First Use _____
 Groundwater (For example, well or developed spring)
 Instream Surface water Source _____
 Amount Used Flow Rate _____ Gallons Per Minute Volume _____ Acre-Feet
 Point of Diversion 1/4 1/4 1/4 Section _____, Township _____ N S, Range _____ E W
 County _____
 Lot/Tract _____ Block _____ Subdivision Name _____



5. Why are you filing a public comment?

Statute requires that a commenter identify how one or more of the application criteria is not adequately addressed in the draft preliminary determination (PD) for the application. Please note that for applications received by the Department on or after January 1, 2024, there will be an opportunity to object to an application only if public comments are received (§85-2-307(5)(c), MCA). Objections will be limited to only those issues on which a public comment was received (§85-2-308(1)(b), MCA).

Complete section A, B, or C below for the type of application to which you are filing a public comment.

Sections A and B: Complete information for only Section A (public comments on a permit application) OR Section B (public comments on a change application). Attach a separate sheet and provide the following information:

1. The application number, applicant name, and your name.
2. The corresponding numbers shown below to clearly indicate on which criteria you are submitting a public comment.
3. For each criterion on which you are submitting a public comment, identify how the draft preliminary determination does not adequately address that criterion.

A) Public Comment About a Permit Application– For each box that is checked, identify how one or more of the criteria in §85-2-311, MCA, is not adequately addressed in the draft PD for the application.

- 1. Physical Availability – Identify how the draft PD does not adequately address how water can be considered physically available.
 - 2. Legal Availability – Identify how the draft PD does not adequately address how water can be considered legally available.
 - 3. Adverse Effect – Identify how the draft PD does not adequately address how this proposed use will not adversely affect your water right.
 - 4. Diversion Works – Identify how the draft PD does not adequately address why the construction of the project is adequate.
 - 5. Beneficial Use – Identify how the draft PD does not adequately address why the use (purpose) or flow rate and volume may be considered beneficial.
 - 6. Possessory Interest – Identify how the draft PD does not adequately address how the applicant has possessory interest in the place of use.
 - 7. Water Quality – Note that an applicant is required to prove these criteria only if a valid objection is received (§85-2-311(2), MCA). Therefore, the Department will not respond to public comments on these criteria but will provide notice of the opportunity to object to the application if public comments on these criteria are received. Identify why you believe the criteria cannot be met:
 - a. Water Quality Issue §85-2-311(1)(f), MCA
 - b. Effect on effluent limitations of discharge permit holder §85-2-311(1)(h), MCA
- Only DEQ or local water quality district may object to:**
- c. Effect on classification of water §75-5-301(1), MCA and §85-2-311(1)(g), MCA
8. Reasonable Use – (only for applications for an appropriation of 4,000 or more acre-feet of water a year and 5.5 cubic feet per second of water) Identify how the draft PD does not adequately address why the proposed appropriation is a reasonable use based on consideration of § 85-2-311(3), MCA.

B) Public Comment About a Change Application – For each box that is checked, identify how one or more of the criteria in § 85-2-402, MCA, is not adequately addressed in the draft preliminary determination for the application.

- 1. Adverse Effect – Identify how the draft PD does not adequately address how this proposed change will not adversely affect your water right or interest or how the historical use of the water right proposed for change is different than described in the application.
- 2. Diversion Works – Identify how the draft PD does not adequately address why the construction of the project is adequate.
- 3. Beneficial Use – Identify how the draft PD does not adequately address why the use (purpose) or the flow rate and volume may be considered beneficial.
- 4. Possessory Interest – Identify how the draft PD does not adequately address how the applicant has possessory interest in the place of use.



- 5. Water Quality – Note that an applicant is required to prove these criteria only if a valid objection is received (§85-2-311(2), MCA). Therefore, the Department will not respond to public comments on these criteria but will provide notice of the opportunity to object to the application if public comments on these criteria are received. Identify why you believe the criteria cannot be met:
 - a. Water Quality Issue §85-2-402(2)(f), MCA
 - b. Effect on effluent limitations of discharge permit holder §85-2-402(2)(g), MCA
- 6. Reasonable Use – (only for applications to change a purpose of use or place of use of an appropriation of 4,000 or more acre-feet of water a year and 5.5 cubic feet per second of water) Identify how the draft PD does not adequately address why the proposed appropriation is a reasonable use based on § 85-2-402(4)(b), MCA.

Section C: Complete information if you are filing a public comment about a Forest Service Reservation Application. Attach a separate sheet and provide the following information:

1. The application number, applicant name, and your name.
2. The corresponding letters shown below to clearly indicate on which criteria you are filing a public comment.
3. For each criterion on which you are submitting a public comment, identify how one of the applicable objector proofs set forth in § 85-20-1401, Article VI, sec. B.3(a) or (b), MCA, is met. The comment must specifically describe why or how one of the objector proofs are met.
 - (A) The amount of water under the wetted perimeter methodology or other methodology was not accurately measured or calculated;
 - (B) The wetted perimeter methodology or other methodology could not suitably be applied to the stream reach applied for;
 - (C) There is not an existing population of the fish species set forth in § 85-20-1401 Art. VI sec. B.1(a)(iii)(B), MCA, identified in the application in the stream reach applied for; or
 - (D) There is a proposed or projected water development project: that is feasible; reliably projected to be commenced within 10 years or within 10 years after a basin closure is removed; in which the objector has or can reasonably obtain a possessory interest (or consent) in the property where the water is to be impounded, stored, transported and put to beneficial use; for which the amount of water needed for the project is reasonable; for which water is not reasonably available from any other water source; for which the water would be unavailable if the proposed reservation was granted; that would not be feasible with water either in a lesser amount or at a different location if the reservation was granted; and that serves a significant public need.

6. Are you represented by counsel? YES NO

Counsel Name _____
 Mailing Address _____
 City _____ State _____ Zip _____ Phone _____
 Email: _____

7. Person preparing this form, if different than commenter:

Name _____
 Mailing Address _____
 City _____ State _____ Zip _____ Phone _____
 Email: _____

8. Commenter's Signature: If you are represented by counsel, counsel may sign.

SIGNATURE J. Siegel DATE 5/8/26

SIGNATURE _____ DATE _____

SIGNATURE _____ DATE _____



Public Comment on Draft preliminary Determination

Attachment explaining commenter's answer to question # 5: Why are you filing a public comment?

- a. The Applicant's Water Right, 76M 300484497, has a Priority date of April 28, 1921. The Applicant is trying to attach his water right standing to 76M 116758 00, an unadjudicated claim with an 1880 Priority date, which has been officially objected to by numerous residents of the Six Mile Valley. If the Applicant is permitted to use the 1880 Priority date, it "allows for a call of water from upstream junior Six Mile Creek water users when the stream flow measured on Six Mile creek by the applicant...falls below 205CFS within the aforementioned time frame." This would have an adverse effect on many Water Rights holders in the Six Mile drainage who rely on the water for livestock, irrigation and domestic usage.
Our Water Rights are attached to the only Missoula County validated appropriation claim, made by Frederick Cormier in 1881. If the Applicant is allowed to claim an 1880 Priority date, we could be severely impacted.
- b. The Applicant does not own land in the Six Mile drainage and therefore should have no claim to beneficial usage of the water other than the generic "instream flow for fisheries in Six Mile Creek" which his personal Water Right would not allow him to interfere with anyway. Permitting this application would jeopardize the valid water usage of other water right holders.
- c. The application states that the "historic flow rate and diverted volume of 359.04 GPM and 208.15AF will be protected in a reach of Six Mile Creek from the original headgate to a location downstream 1.2 miles in the NWSESW SEC 12, T15N, R22W." The Township map clearly shows the Lebert-Bisonette ditch terminating in Section 23, not Section 12. Again, the purported "beneficial use" of fisheries is unsupported by either existing usage, proprietary rights to support future usage, or the existence of the Lebert-Bisonette ditch (to be discussed in "d." below).
- d. The proposed change states that "the historic ditch will be decommissioned and the place of use no longer irrigated." The Lebert-Bisonette ditch has not been in use in the 48 years we have lived in the Six Mile and no longer even has a ground footprint. An April 27, 2012 letter from the USFS District Ranger at the Nine Mile Station to Mr. Ed Richardson, described the records of the Lebert-Bisonette ditch as follows:
 - On March 14, 1988, Helen Neumunz received an authorization for special use;

- On March 8, 1993, she requested the permit be terminated because the property served by the ditch had been sold;
- The new owner of the ditch, Mr. Ernie Johnson, never requested a new authorization for the ditch;
- Jim and Lynn Rhoades bought the property in 1997 and filed a letter on September 2, 1999, declaring they had no objection to the USFS permanently blocking the diversion for their Six Mile Water Rights 76M-W-1167580-00 and 76M-W-116756-00.

The Applicant never had any right to the flow from the Lebert-Bisonette ditch (76M-W-1167580-00) and the USFS was allowed to permanently block the diversion of said ditch. The applicant is misrepresenting any personal ownership claim to this water flow and distorting the validity of the existing water availability, as explained below.

- e. The Six Mile Valley was closed to new Water Rights applications by the Water Court in 1996 because the creek was already over-allocated. The Applicant is claiming a right to an historic flow rate and consumed volume of 359.04 GPM and 19.5 AF which does not exist.

This application is a blatant attempt to seize control of the Six Mile Creek water flow, using incorrect information and a non-adjudicated Water Rights claim, for personal gain—not the stated purpose of protecting “instream fisheries.”



Re: [EXTERNAL] Objection to Application Number 76M 30171923

From DNRC Water Rights Comment Objection <DNRCWaterRightsCommentObjection@mt.gov>

Date Fri 5/8/2026 4:08 PM

To Jeannie & Chris Siegler <csiegler@montana.com>

Cc DNR CO PN <DNRCOPN@mt.gov>

Thank you for emailing DNRCWATERRIGHTSCOMMENTOBJECTION@MT.GOV.

If you attached a Form 654 - Public Comment on Application, your public comment will be processed in accordance with 85-2-307(4), MCA.

If you attached a Form 611 - Objection to Application, you must pay the \$50.00 filing fee by the deadline specified in the Public Notice. Mail checks to: DNRC Water Rights Bureau, PO Box 201601, Helena, MT 59620-1601 or pay by phone at (406)-444-6610. Your Form 611 will processed in accordance with 85-2-308, MCA.

From: Jeannie & Chris Siegler <csiegler@montana.com>

Sent: Friday, May 8, 2026 3:28 PM

To: DNRC Water Rights Comment Objection <DNRCWaterRightsCommentObjection@mt.gov>

Cc: Jeannie & Chris Siegler <csiegler@montana.com>

Subject: [EXTERNAL] Objection to Application Number 76M 30171923

To Whom It May Concern,

Attached is a signed form 654 objecting to the Preliminary Determination on Application number 76M 3017 1923, submitted by Lee Yellin. Also attached is a narrative explanation of why my wife and I are filing public comment objecting to this application.

Please let me know if you need more information.

Thank you very much for your attention to this objection.

Sincerely,

Chris and Jeannie Siegler

19475 Conifer Dr

Huson, MT 59846



PUBLIC COMMENT ON A DRAFT PRELIMINARY DETERMINATION

§85-2-307, MCA
Form No. 654 (Revised 10/2025)

For Department Use Only

RECEIVED

MAY 12 2026

DNRC-WRD

Instructions

Use this form to file a public comment about an application for a water use permit, change authorization, or forest service water reservation.

Use one form for each application about which you are filing a public comment. Individual water right owners must file separate public comments. **This form must be received on or before the deadline specified in the public notice.**

Submit form to:
Montana Department of Natural Resources and Conservation (DNRC)
Water Rights Bureau
1424 9th Avenue, PO Box 201601, Helena, MT 59620-1601

Date Received 5/12/2026
Received By KQ
Comment # 112
Entered By KQ
Date 5/13/2026

Electronic submissions may be sent to:
DNRCWATERRIGHTSCOMMENTOBJECTION@MT.GOV

1. Name of Commenter Travis Gran Contact ID: 423478
Mailing Address 24480 Eastgate Rd
City Huson State MT Zip 59846
Home Phone (406) 210-2697 Other Phone _____
Email: travis.gran@gmail.com

2. On which application are you filing a public comment? Application Number 76M 30171923
Applicant Name Lee Yelin

3. How do you have standing to file this public comment? A person has standing if his or her property, water rights, or interests would be adversely affected by the proposed appropriation. Explain your interest and how it would be adversely affected.
I am the owner of water rights on six mile creek with a more recent priority date. I am concerned that, should this change go through, both my right, and the rights of those in the surrounding area, would be undermined- both directly by this change, and indirectly through the legitimization of the right in question prior to the upcoming arbitration process.

4. Will your water right be affected? If so, provide the water right number.
 (W) Statement of Claim No. 76M 43218-00
 (P) Permit to Appropriate Water No. _____
 (C) Certificate of Water Right No. _____
 (D) Powder River Final Decree No. _____
 (M/R) Reservation of Water No. _____
 (E) Exempt Notice No. _____
 (F) Non-recorded Exempt Right (For a filing not on record with the DNRC, complete the information below).
Type of Use Stock Domestic Date of First Use _____
 Groundwater (For example, well or developed spring)
 Instream Surface water Source _____
Amount Used Flow Rate _____ Gallons Per Minute Volume _____ Acre-Feet
Point of Diversion ___ 1/4 ___ 1/4 ___ 1/4 Section ____, Township _____ N S, Range _____ E W
County _____
Lot/Tract _____ Block _____ Subdivision Name _____



5. Why are you filing a public comment?

Statute requires that a commenter identify how one or more of the application criteria is not adequately addressed in the draft preliminary determination (PD) for the application. Please note that for applications received by the Department on or after January 1, 2024, there will be an opportunity to object to an application only if public comments are received (§85-2-307(5)(c), MCA). Objections will be limited to only those issues on which a public comment was received (§85-2-308(1)(b), MCA).

Complete section A, B, or C below for the type of application to which you are filing a public comment.

Sections A and B: Complete information for only Section A (public comments on a permit application) OR Section B (public comments on a change application). Attach a separate sheet and provide the following information:

1. The application number, applicant name, and your name.
2. The corresponding numbers shown below to clearly indicate on which criteria you are submitting a public comment.
3. For each criterion on which you are submitting a public comment, identify how the draft preliminary determination does not adequately address that criterion.

A) Public Comment About a Permit Application– For each box that is checked, identify how one or more of the criteria in §85-2-311, MCA, is not adequately addressed in the draft PD for the application.

- 1. Physical Availability – Identify how the draft PD does not adequately address how water can be considered physically available.
- 2. Legal Availability – Identify how the draft PD does not adequately address how water can be considered legally available.
- 3. Adverse Effect – Identify how the draft PD does not adequately address how this proposed use will not adversely affect your water right.
- 4. Diversion Works – Identify how the draft PD does not adequately address why the construction of the project is adequate.
- 5. Beneficial Use – Identify how the draft PD does not adequately address why the use (purpose) or flow rate and volume may be considered beneficial.
- 6. Possessory Interest – Identify how the draft PD does not adequately address how the applicant has possessory interest in the place of use.
- 7. Water Quality – Note that an applicant is required to prove these criteria only if a valid objection is received (§85-2-311(2), MCA). Therefore, the Department will not respond to public comments on these criteria but will provide notice of the opportunity to object to the application if public comments on these criteria are received. Identify why you believe the criteria cannot be met:
 - a. Water Quality Issue §85-2-311(1)(f), MCA
 - b. Effect on effluent limitations of discharge permit holder §85-2-311(1)(h), MCA
- Only DEQ or local water quality district may object to:**
 - c. Effect on classification of water §75-5-301(1), MCA and §85-2-311(1)(g), MCA

- 8. Reasonable Use – (only for applications for an appropriation of 4,000 or more acre-feet of water a year and 5.5 cubic feet per second of water) Identify how the draft PD does not adequately address why the proposed appropriation is a reasonable use based on consideration of § 85-2-311(3), MCA.

B) Public Comment About a Change Application – For each box that is checked, identify how one or more of the criteria in § 85-2-402, MCA, is not adequately addressed in the draft preliminary determination for the application.

- 1. Adverse Effect – Identify how the draft PD does not adequately address how this proposed change will not adversely affect your water right or interest or how the historical use of the water right proposed for change is different than described in the application.
- 2. Diversion Works – Identify how the draft PD does not adequately address why the construction of the project is adequate.
- 3. Beneficial Use – Identify how the draft PD does not adequately address why the use (purpose) or the flow rate and volume may be considered beneficial.
- 4. Possessory Interest – Identify how the draft PD does not adequately address how the applicant has possessory interest in the place of use.



- 5. Water Quality – Note that an applicant is required to prove these criteria only if a valid objection is received (§85-2-311(2), MCA). Therefore, the Department will not respond to public comments on these criteria but will provide notice of the opportunity to object to the application if public comments on these criteria are received. Identify why you believe the criteria cannot be met:
 - a. Water Quality Issue §85-2-402(2)(f), MCA
 - b. Effect on effluent limitations of discharge permit holder §85-2-402(2)(g), MCA
- 6. Reasonable Use – (only for applications to change a purpose of use or place of use of an appropriation of 4,000 or more acre-feet of water a year and 5.5 cubic feet per second of water) Identify how the draft PD does not adequately address why the proposed appropriation is a reasonable use based on § 85-2-402(4)(b), MCA.

Section C: Complete information if you are filing a public comment about a Forest Service Reservation Application. Attach a separate sheet and provide the following information:

1. The application number, applicant name, and your name.
2. The corresponding letters shown below to clearly indicate on which criteria you are filing a public comment.
3. For each criterion on which you are submitting a public comment, identify how one of the applicable objector proofs set forth in § 85-20-1401, Article VI, sec. B.3(a) or (b), MCA, is met. The comment must specifically describe why or how one of the objector proofs are met.

- (A) The amount of water under the wetted perimeter methodology or other methodology was not accurately measured or calculated;
- (B) The wetted perimeter methodology or other methodology could not suitably be applied to the stream reach applied for;
- (C) There is not an existing population of the fish species set forth in § 85-20-1401 Art. VI sec. B.1(a)(iii)(B), MCA, identified in the application in the stream reach applied for; or
- (D) There is a proposed or projected water development project: that is feasible; reliably projected to be commenced within 10 years or within 10 years after a basin closure is removed; in which the objector has or can reasonably obtain a possessory interest (or consent) in the property where the water is to be impounded, stored, transported and put to beneficial use; for which the amount of water needed for the project is reasonable; for which water is not reasonably available from any other water source; for which the water would be unavailable if the proposed reservation was granted; that would not be feasible with water either in a lesser amount or at a different location if the reservation was granted; and that serves a significant public need.

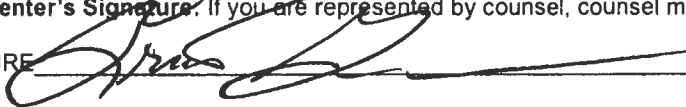
6. Are you represented by counsel? YES NO

Counsel Name _____
 Mailing Address _____
 City _____ State _____ Zip _____ Phone _____
 Email: _____

7. Person preparing this form, if different than commenter:

Name _____
 Mailing Address _____
 City _____ State _____ Zip _____ Phone _____
 Email: _____

8. Commenter's Signature: If you are represented by counsel, counsel may sign.

SIGNATURE  DATE 5/12/2026

SIGNATURE _____ DATE _____

SIGNATURE _____ DATE _____

Application Number: 76M 30171923

Applicant Name: Lee Yelin

My Name: Travis Gran

Criteria on which I am submitting public comment:

1. Adverse Effect – Identify how the draft PD does not adequately address how this proposed change will not adversely affect your water right or interest or how the historical use of the water right proposed for change is different than described in the application.

Comments: The historical use of the water right proposed for change is, in fact, different than described in the application. Though the ditch was dug to transport water from six mile creek to the POU, it was a failed project. The ditch was never put into use. The application indicates that the applicant is seeking to change the purpose from irrigation to instream flow. I contend that this water right has not been exercised for the purpose of irrigation for 30+ years, and water has never been successfully transported from six mile creek to the listed POU.

4. Possessory Interest – Identify how the draft PD does not adequately address how the applicant has possessory interest in the place of use.

Comments: The PD does not adequately address how the applicant has possessory interest in the place of use. His possessory interest is not addressed at all. He does not own any of the property at the place of use. He has not demonstrated why he wishes to make this change, other than to state that the change is “for fisheries in Six Mile Creek.” On these grounds, he has not demonstrated:

- a) That a flow measurement of below 2.05 CFS would be detrimental to Six Mile Creek fisheries,
- b) That Six Mile Creek flows fall to a level which threatens fisheries in Six Mile Creek, or
- c) That the measurements utilized in the application are reflective of the current flows of Six Mile Creek. The most recent flow measurements submitted in his application are from 2010-2011. This is a full fifteen years ago. Creek flows can change markedly within a period of sixteen years.

FW: [EXTERNAL] Public comment

From DNRC Water Rights Comment Objection <DNRCWaterRightsCommentObjection@mt.gov>

Date Tue 5/12/2026 6:11 PM

To Irwin, Kristi <Kristi.Irwin@mt.gov>; Quinn, Karson <Karson.Quinn@mt.gov>; Ward, Luke <Lucas.Ward@mt.gov>; Scharf, Mallory <Mallory.Scharf@mt.gov>; Rickman, Jennifer <Jennifer.Rickman@mt.gov>

 1 attachment (193 KB)

staples_scan.pdf;

From: Travis Gran <travis.gran@gmail.com>

Sent: Tuesday, May 12, 2026 6:07:13 PM (UTC-07:00) Mountain Time (US & Canada)

To: DNRC Water Rights Comment Objection <DNRCWaterRightsCommentObjection@mt.gov>

Subject: [EXTERNAL] Public comment

To whom it may concern,

Please see the public comment, form #564, which is attached as a PDF. Thank you.

Travis Gran

Public Comments – Not Considered*

76M 30171923 Lee Yelin

Commenter	Received after Public Comment Deadline	No criteria identified	General statement does not address criteria selected	Criteria addressed only in question form	Other (specify)
Bruce & Barbara Sims		✓			No criteria selected on the public comment form. No valid signature.

* If you do not see your comment in the table above, it was not accepted for the following reason:

- The submitted Form 654 Public Comment on Application did not provide an application number for the application being commented on.

Public Comments (Not considered)

PUBLIC COMMENT ON A DRAFT

MONTANA

For Department Use Only

DNRC PRELIMINARY DETERMINATION

2-307MCA

Form No. 654 (Revised 10/2025)

RECEIVED

MAY 10 2026

DNRC-WRD

Received Digitally

Instructions

Use this form to file a public comment about an application for a water use permit, change authorization, or forest service water reservation.

Use one form for each application about which you are filing a public comment. Individual water right owners must file separate public comments. This form must be received on or before the deadline specified in the public notice.

Submit form to:

Montana Department of Natural Resources and Conservation (DNRC) Water Rights Bureau

1424 9th Avenue, PO Box 201601, Helena, MT 59620-1601

Electronic submissions may be sent to:

DNRCWATERRIGHTSCOMMENTOBJECTION@MT.GOV

Date Received

5/10/2026

Received By

Ka

Comment #

Entered By

Date

1. Name of Commenter Bruce and Barbara Sims

Mailing Address 19380 Conifer Dr.

HusonState MT

City

Zip

59846

Home

Phone (406)

5326 Other Phone (406) 546-3917

626-

Email: Simswatershed@gmail.com

2. On which application are you filing a public comment? Application Number

76M 3017 1923 Applicant Name Lee Yellin

3. How do you have standing to file this public comment? A person has standing if his or her property, water rights, or interests would be adversely affected by the proposed appropriation. Explain your interest and how it would be adversely affected.

The proposed action could adversely effect all water rights within the Six Mile watershed.

4. Will your water right be affected? If so, provide the water right number.

- (W) Statement of Claim No. _____
- (P) Permit to Appropriate Water _____
- (C) No. _____
- (D) Certificate of Water Right No. 76M 149137-00
- (M) Powder River Final Decree No. _____
- (E) _____
- (F) _____

(MIR) Reservation of Water No. _____

Exempt Notice No. _____

Non-recorded Exempt Right (For a filing not on record with the DNRC, complete the information below).

Type of Use Stock O Domestic Date of First Use _____

Groundwater (For example, well or developed spring)

Instream Surface water Source _____

Amount Used Flow Rate _____ Gallons Per Minute Volume _____ Acre-Feet

Point of Diversion 1/4 _____ 1/4 _____ 1/4 Section _____, Township _____ N S, Range _____ E W 1/4

Section _____

County _____

Lot/Tract Block Subdivision Name

-

5. Why are you filing a public comment?

Statute requires that a commenter identify how one or more of the application criteria is not adequately addressed in the draft preliminary determination (PD) for the application. Please note that for applications received by the Department on or after January 1, 2024, there will be an opportunity to object to an application only if public comments are received (§85-2-307(5)(c), MCA). Objections will be limited to only those issues on which a public comment was received (585-2-308(1)(b), MCA).

Complete section A, B, or C below for the type of application to which you are filing a public comment.

Sections A and B: Complete information for only Section A (public comments on a permit application) OR Section B (public comments on a change application). Attach a separate sheet and provide the following information:

1. The application number, applicant name, and your name.
2. The corresponding numbers shown below to clearly indicate on which criteria you are submitting a public comment.
3. For each criterion on which you are submitting a public comment, identify how the draft preliminary determination does not adequately address that criterion.

A) Public Comment About a Permit Application— For each box that is checked, identify how one or more of the criteria in 585-2-311, MCA, is not adequately addressed in the draft PD for the application.

1. Physical Availability — Identify how the draft PD does not adequately address how water can be considered physically available.
2. Legal Availability — Identify how the draft PD does not adequately address how water can be considered legally available.
3. Adverse Effect — Identify how the draft PD does not adequately address how this proposed use will not adversely affect your water right.

4. Diversion Works — Identify how the draft PD does not adequately address why the construction of the project is adequate.
5. Beneficial Use — Identify how the draft PD does not adequately address why the use (purpose) or flow rate and volume may be considered beneficial.
6. Possessory Interest — Identify how the draft PD does not adequately address how the applicant has possessory interest in the place of use.
7. Water Quality — Note that an applicant is required to prove these criteria only if a valid objection is received (5852-311 (2), MCA). Therefore, the Department will not respond to public comments on these criteria but will provide notice of the opportunity to object to the application if public comments on these criteria are received. Identify why you believe the criteria cannot be met:

- a. Water Quality Issue §85-2-311(1)(f), MCA
- b. Effect on effluent limitations of discharge permit holder §85-2-311(1)(h)MCA

Only DEQ or local water quality district may object to:

- c. Effect on classification of water 575-5-301 (1), MCA and 585-2-311 (1) MCA

8. Reasonable Use — (only for applications for an appropriation of 4,000 or more acre-feet of water a year and 5.5 cubic feet per second of water) Identify how the draft PD does not adequately address why the proposed appropriation is a reasonable use based on consideration of S 85-2-311 (3), MCA.

B) Public Comment About a Change Application — For each box that is checked, identify how one or more of the criteria in S 85-2-402, MCA, is not adequately addressed in the draft preliminary determination for the application.

1. Adverse Effect — Identify how the draft PD does not adequately address how this proposed change will not adversely affect your water right or interest or how the historical use of the water right proposed for change is different than described in the application.
2. Diversion Works — Identify how the draft PD does not adequately address why the construction of the project is adequate.
3. Beneficial Use — Identify how the draft PD does not adequately address why the use (purpose) or the flow rate and volume may be considered beneficial.
4. Possessory Interest — Identify how the draft PD does not adequately address how the applicant has possessory interest in the place of use.

—

5. Water Quality — Note that an applicant is required to prove these criteria only if a valid objection is received (5852-311 (2), MCA). Therefore, the Department will not respond to public comments on these criteria but will provide notice of the opportunity to object to the application if public comments on these criteria are received. Identify why you believe the criteria cannot be met:

- a. Water Quality Issue S85-2-402(2)(f), MCA
- b. Effect on effluent limitations of discharge permit holder S85-2-402(2)(g), MCA

6. Reasonable Use — (only for applications to change a purpose of use or place of use of an appropriation of 4,000 or more acre-feet of water a year and 5.5 cubic feet per second of water) Identify how the draft PD does not adequately address why the proposed appropriation is a reasonable use based on S 85-2-402(4)(b), MCA.

Section C: Complete information if you are filing a public comment about a Forest Service Reservation Application. Attach a separate sheet and provide the following information:

1. The application number, applicant name, and your name.

MONTANA

2. The corresponding letters shown below to clearly indicate on which criteria you are filing a public comment.
3. For each criterion on which you are submitting a public comment, identify how one of the applicable objector proofs set forth in S 85-20-1401, Article VI, sec. B.3(a) or (b), MCA, is met. The comment must specifically describe why or how one of the objector proofs are met.

(A) The amount of water under the wetted perimeter methodology or other methodology was not accurately measured or calculated;

(B) The wetted perimeter methodology or other methodology could not suitably be applied to the stream reach applied for;

(C) There is not an existing population of the fish species set forth in S 85-20-1401 Art. VI sec. B. 1 a)(iii)(B), MCA, identified in the application in the stream reach applied for; or

(D) There is a proposed or projected water development project: that is feasible; reliably projected to be commenced within 10 years or within 10 years after a basin closure is removed; in which the objector has or can reasonably obtain a possessory interest (or consent) in the property where the water is to be impounded, stored, transported and put to beneficial use; for which the amount of water needed for the project is reasonable; for which water is not reasonably available from any other water source; for which the water would be unavailable if the proposed reservation was granted; that would not be feasible with water either in a lesser amount or at a different location if the reservation was granted; and that serves a significant public need.

6. Are you represented by counsel? YES O NO @

Counsel Name _____

Mailing Address _____

_____ State _____ Zip _____ Phone _____ City _____

Email: _____

7. Person preparing this form, if different than commenter:

Name _____

Mailing Address _____

_____ State _____ Zip _____ Phone _____ City _____

Email: _____

8. Commenter's Signature: If you are represented by counsel, counsel may sign. SIGNATURE

_____ DATE _____

SIGNATURE/s/ Bruce Sims

DATE 5-10-2026 _____

SIGNATURE _____

DATE _____

Public Comment on Draft preliminary Determination

Attachment explaining commenter's answer to question # 5: **Why are you filing a public comment?**

The Applicant's Water Right, 76M 300484497, has a Priority date of April 28, 1921. The Applicant is trying to attach his water right standing to 76M 116758 00, an un-adjudicated claim with an 1880 Priority date, which has been officially objected to by numerous residents of the Six Mile Valley. The Applicant does not own land in the Six Mile drainage. Chris Seigler a local water rights holder on the Lebert-Bisonette Ditch has stated that the Lebert-Bisonette Ditch has been abandoned for at least 48 years since he moved into the valley. There is a strong case for abandonment of water rights associated with the ditch dating back many decades.

Granting an "instream flow for fisheries in Six Mile Creek" with a 1980 Priority date would allow the valid water usage of other water right holders to be jeopardized. It would "allow for a call of water from junior Six Mile Creek water users when the stream flow measured on Six Mile creek by the applicant...falls below 205CFS." This would have an adverse effect on many Water Rights holders in the Six Mile drainage who rely on the water for livestock, irrigation, and domestic usage.

Our property's Water Rights show a priority date of 1924 in the Preliminary Decree issued by The Water Court. It is served by the Cormier Ditch and is attached to the only Missoula County validated appropriation claim, made by Frederick Cormier in 1881. Therefore, we question the 1924 priority date. If the Applicant is allowed to claim an 1880 Priority date, we and others in the community could be severely impacted.

The 1960 Water Resource Survey Map clearly shows approximately 102 acres in section 23 that may have been watered by the Lebert-Bisonette Ditch. The map shows the terminus of the ditch in section 23.

- a. An April 27, 2012 letter from the USFS District Ranger at the Nine Mile Station to Mr. Ed Richardson, described the records of the Lebert-Bisonette ditch as follows:
 - On March 14, 1988, Helen Neumunz received an authorization for special use;
 - On March 8, 1993, she requested the permit be terminated because the property served by the ditch had been sold;
 - The new owner of the ditch, Mr. Ernie Johnson, never requested a new authorization for the ditch;

- Jim and Lynn Rhoades bought the property in 1997 and filed a letter on September 2, 1999, declaring they had no objection to the USFS permanently blocking the diversion for their Six Mile Water Rights 76M-W-1167580-00 and 76M-W-116756-00.

The Applicant never had any right to the flow from the Lebert-Bisonette ditch (76M-W-1167580-00) and the USFS was allowed to permanently block the diversion of said ditch. The applicant is misrepresenting any personal ownership claim to this water flow and distorting the validity of the existing water availability, as explained below.

The Six Mile Valley was closed to new Water Rights applications by the Water Court in 1996 because the creek was already over-allocated. The Applicant is claiming a right to an historic flow rate and consumed volume of 359.04 GPM and 19.5 AF which does not exist.

This application is a blatant attempt by a former State employee whose duties we understand administered water rights to seize control of the Six Mile Creek water flow, using incorrect information and a non-adjudicated Water Rights claim, for personal gain—not the stated purpose of protecting “instream fisheries.”



Re: [EXTERNAL] Public Comment on A Draft Preliminary Determination

From DNRC Water Rights Comment Objection <DNRCWaterRightsCommentObjection@mt.gov>

Date Mon 5/11/2026 9:30 AM

To Bruce Sims <simswatershed@gmail.com>

Cc DNR CO PN <DNRCOPN@mt.gov>

Thank you for emailing DNRCWATERRIGHTSCOMMENTOBJECTION@MT.GOV.

If you attached a Form 654 - Public Comment on Application, your public comment will be processed in accordance with 85-2-307(4), MCA.

If you attached a Form 611 - Objection to Application, you must pay the \$50.00 filing fee by the deadline specified in the Public Notice. Mail checks to: DNRC Water Rights Bureau, PO Box 201601, Helena, MT 59620-1601 or pay by phone at (406)-444-6610. Your Form 611 will processed in accordance with 85-2-308, MCA.

From: Bruce Sims <simswatershed@gmail.com>

Sent: Sunday, May 10, 2026 6:38 PM

To: DNRC Water Rights Comment Objection <DNRCWaterRightsCommentObjection@mt.gov>

Subject: [EXTERNAL] Public Comment on A Draft Preliminary Determination

Please see the attached documents outlining concerns regarding Application Number 76M 3017 1923 from Bruce and Barbara Sims 76M 149137 00

Thank you,
Bruce and Barbara Sms
19380 Conifer Dr, Huson, MT 59846
406-546-3917 cell
406-626-5326 land line

NOTICE AREA

Application No. **76M 30171923**

Regional Office # **09**

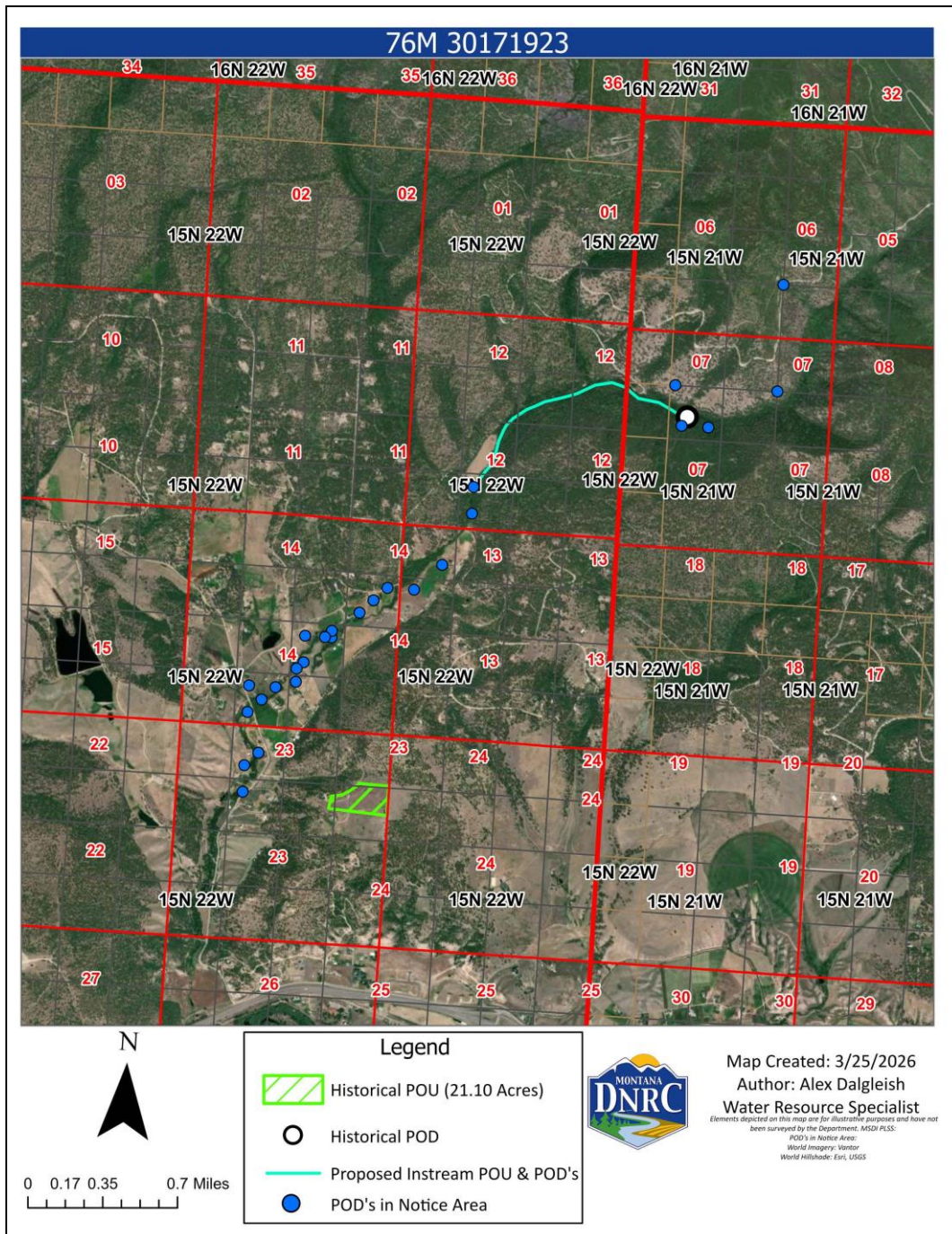
Applicant's Name **Lee Yelin**

Indian Reservation Yes No If yes, Reservation _____

Irrigation District Yes No If yes, District _____

Specialist **Alex Dalgleish**

Date **4/3/2026**



Map showing Applicant's historic and proposed POU and water right POD's in Notice Area

Water Right Owner	Water Right # (Basin, ID, and Number)
Applicant: Lee Yelin	76M 30171923
1CFC CLARK FORK COALITION	Missoula Regional Office Standard Contacts
1DSL MONTANA BOARD OF LAND COMMISSIONER	
1FWP DEPT OF FISH WILDLIFE & PARKS	
1NWE NORTHWESTERN ENERGY	
1PPL PPL MONTANA LLC	
1TUL MT TROUT UNLIMITED	
1WQB DEPT OF ENVIRONMENTAL QUALITY	
1WWP AVISTA CORP	
2BIA BUREAU OF INDIAN AFFAIRS	
2FWP DEPT OF FISH WILDLIFE & PARKS	
8LNF LOLO NATIONAL FOREST	
9MSL DEPT OF NATURAL RESOURCES & CONSERVATION	
9USF US FOREST SERVICE	
MISSOULIAN	
ADAM D STAGG; TIA R STAGG	76M 38769 00
ANDREW M BAIADY	76M 17123 00
ARKELLE HAGAN	76M 110506 00
	76M 110505 00
BARBARA G SIMS; BRUCE D SIMS	76M 149137 00
BJORN NABOZNEY; TAMARA NABOZNEY	76M 131029 00
BRENDA K DUDIK; JOHN DUDIK	76M 30048498
CHARLOTTE J SIEVERS; RALPH E SIEVERS	76M 116756 00
CHRISTOPHER J SIEGLER; JEANNIE P SIEGLER	76M 107929 00
	76M 107928 00
DALE E FREY; ELECTRA A FREY; ANN M HADLOW	76M 149707 00
DAVID W WHEAT; JUDY A WHEAT	76M 99249 00
DONALD K DESILVA; LYNDSEY K DESILVA	76M 12686 00
GLACIER FAMILY TRUST DATED NOVEMBER 17, 2020	76M 149079 00
	76M 149081 00
	76M 149080 00
HEATHER BRITTON; KENNETH A BRITTON	76M 150380 00
HINES, RONALD & JOYCE LIVING TRUST	76M 46937 00
JASON WILLIAMS; KELLEY D WILLIAMS	76M 107838 00
JESSICA A FRANK; ROBERT J FRANK	76M 133474 00
	76M 30122806
JOHN ZEIMET; ROXANNE ZEIMET	76M 149725 00

JON T LEE; ROSE, COLLIN & KAREN LIVING TRUST DATED 9/26/2024; IVIE L WILSON; JOHN R WILSON	76M 111229 00
	76M 111228 00
JOY BLOECHL; JEROME R TAUTGES	76M 3688 00
JUANITA M HIRSCHI; OLIVER G HIRSCHI; ARTHUR J SCHEFFER; CHRISTINE E SCHEFFER; DENNIS W SCHEFFER; EDGAR J SCHEFFER; PATRICIA L SCHEFFER	76M 99193 00
KLUCEWICH, JOSH & LAUREN FAMILY TRUST	76M 30066052
	76M 30066051
LACEY FARNES; RICHARD FARNES	76M 111189 00
LANE H LONG; PAUL S LONG	76M 34977 00
LANE H LONG; PAUL S LONG; BRIAN L METHER; RENEE MINJARES; RORY MINJARES; JASON WILLIAMS; KELLEY D WILLIAMS	76M 30048499
LARA E GRAN; TRAVIS L GRAN	76M 43218 00
LAURA J BOUDREAUX; WILLIAM J BOUDREAUX	76M 30122665
LAURA R GRAPENSTETER	76M 6798 00
LAURA R GRAPENSTETER; DIANA M HARRIS; SHELDON C HARRIS; JENNIFER R RICHARDSON; RORY R RICHARDSON	76M 6799 00
	76M 6800 00
LEE YELIN	76M 30048497
LEROY R KINCEL; LINDA R KINCEL; CHARLOTTE J SIEVERS; RALPH E SIEVERS; LEE YELIN	76M 116758 00
LINDA S MCCORMICK; WILLIAM G MCCORMICK	76M 64552 00
LUCAS M MCIVER; NANCY A MCIVER REVOCABLE TRUST	76M 21981 00
MICHAEL OLIVER	76M 30066054
	76M 30066053
MOLLY A REYNOLDS	76M 110488 00
MONTANA STATE BOARD OF LAND COMMISSIONERS	76M 214354 00
	76M 49886 00
OWNERS	WR_NUMBER
PHYLLIS J BALLARD	76M 30119088
PHYLLIS J BALLARD; ANASTASIA P METHER; BRIAN L METHER	76M 111333 00

RENEE MINJARES; RORY MINJARES; MELISSA J WICKUM; RYAN L WICKUM	76M 20080 00
	76M 20081 00
ROBYNN M MARSH; RONALD MARSH	76M 131085 00
RORY R RICHARDSON	76M 103805 00
	76M 103804 00
	76M 103806 00
THOMAS O CARLSEN	76M 30135999
	76M 17877 00
USA (DEPT OF AGRICULTURE FOREST SERVICE)	76M 30070859
PUBLISHED: MISSOULIAN	
REMARKS: Legal land description of notice area: Sections 6 and 7 of Township 15N, Range 21W, Sections 12, 13, 14 and 23 of Township 15N, Range 22W, all in Missoula County	

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:

Lee Yelin
5890 Kerr Dr
Missoula, MT 59803-3028

2. Type of action: Application for Change No 76M 30171923

3. Water source name: Sixmile Creek

4. Location affected by project:

Points of diversion: S2NE, SESENW, E2NESW, SWNESW, NWSESW all in Sec. 12 T15N, R22W, Missoula County.

Place of use: S2NE, SESENW, E2NESW, SWNESW, NWSESW all in Sec. 12 T15N, R22W, Missoula County.

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

The Applicant proposes to temporarily change the point of diversion (POD), place of use (POU) and purpose of use for Statement of Claim 76M 30048497. The proposed change is temporary for a period of ten years as described in 85-2-407 and 85-2-408, MCA. The irrigation use will be changed to instream flow on Sixmile Creek. The historic ditch has been decommissioned, and all historically 21.10 irrigated acres associated with right 76M 30048497 will be retired. A prior Change Authorization was issued in 2011 (No. 76M 30049150) for Statement of Claim 76M 30048497, changing the purpose of use, point of diversion (POD) and place of use (POU) from irrigation to instream flow. The Applicant failed to submit a Notice of Renewal, and the change authorization expired at the end of 2021. This change proposal seeks to reestablish the prior temporary instream flow authorization. The DNRC shall issue a water use change 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, 2022 Dewatered Streams Map
- Montana Department of Environmental Quality - 303(d) list of impaired streams, Montana Impaired Waters 2020 Maps.

- USDA Natural Resources Conservation Science – Web Soil Survey
- U.S. Fish and Wildlife Service (USFWS) National Wetlands Inventory Mapper

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 & Parks Dewatered Concern Areas list does not identify Lower Clark Fork River as chronically or periodically dewatered. Water would be left instream on Sixmile Creek, which is a tributary to the Clark Fork River. The proposed appropriation will not result in any depletions to the Sixmile Creek or the Clark Fork River.

Determination: No significant impacts.

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 proposed change in purpose from irrigation to in-stream flow will not affect water quality in this reach as it will make water available for other water users within the area.

Determination: No significant impacts.

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 right.

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 Sixmile Creek for in-stream flow purpose. This is not expected to have an impact on channels, riparian areas, dams or well construction.

Determination: No significant impacts.

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 (MNHP) was utilized 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 MNHP identified the following species of concern: Westslope Cutthroat Trout, Bull Trout, Bald Eagle, Bobolink, Cassin's Finch, Clarks Nutcracker, Evening Grosbeak, Flammulated Owl, Great Blue Heron, Lewis's Woodpecker, Pileated Woodpecker, Varied Thrush, Veery, Western Skink, Fisher, Grizzly Bear, Long-eared Myotis, Long-logged Myotis, Silver-haired Bat, Wolverine, Yuma Myotis, Carex Scoparia, Columbia Water-meal and Lime-Seep Eucladium Moss.

Determination: No significant impacts.

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 posed place of use will be negatively impacted.

Determination: No impacts.

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

This project does not involve any ponds.

Determination: No impacts

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 instream flow use is not anticipated to cause saline seeps.

Determination: No significant impacts

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 significant 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 significant 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 proposal is to leave water in-stream on Sixmile Creek. The reach of the creek does pass through Montana State Trust Lands. However, no degradation of unique archeological or historical sites is anticipated from leaving water in the creek.

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.*

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

Determination: No significant impacts

HUMAN ENVIRONMENT

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

There are no locally adopted environmental plans or goals. This project is not expected to create any significant pollution, noise, or traffic congestion in the area that may alter the quality recreational opportunities. The proposed place of use and diversion do not exist on land designated as wilderness.

Determination: No significant 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 reach of in-stream flow traverses through property owned by the US Forest Service and Montana State Trust Lands. No wilderness areas will be impacted by the proposed use of water.

Determination: No impacts

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

The proposed use will not adversely impact human health.

Determination: No significant 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.*

Determination: No significant 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?

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

Secondary Impacts: No significant secondary impacts identified.

Cumulative Impacts: No significant secondary 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. 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 purpose, 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 currently.

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 Conservation Specialist
 Date: January 12, 2026



Missoula Water Resources Regional Office
PO Box 5004
2705 Spurgin Road, Bldg. C
Missoula, MT 59806-5004
(406) 721-4284

March 12, 2026

Lee Yelin
5890 Kerr Dr.
Missoula, MT 59803-3028

Subject: Draft Preliminary Determination to Grant Water Right Change Application No. 76M
30171923

Dear Applicant,

The Department of Natural Resources and Conservation (Department or DNRC) has completed a preliminary review of your application. This review consists of an evaluation of the criteria for issuance of a Change authorization found in §85-2-402, MCA. The Department has preliminarily determined that the criteria are met, and this application should be granted. A copy of the Draft Preliminary Determination to Grant your application is attached.

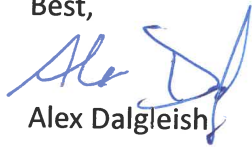
You have the opportunity to request an extension of time to submit additional information for the Department to consider in the decision, within 15 business days of the date of this letter. If no written request for an extension is received by April 2, 2026 the Department will prepare a notice of opportunity to provide public comment per §85-2-307(4), MCA.



Please note that if you are granted an extension of time to submit additional information to the Department, additional information may be considered an amendment to your application, which may reset application timelines pursuant to ARM 36.12.1401.

Please let me know if you have any questions.

Best,



Alex Dagleish

Water Resource Specialist

Missoula Regional Office

(406)-542-5886

Alexander.dagleish@mt.gov



- Department- completed technical analyses based on information provided in the Preapplication materials, dated December 5, 2025.

Information Received after Application Filed

- Deficiency response, dated January 9, 2026, received by the Department January 9, 2026

Information within the Department's Possession/Knowledge

- Prior Change Authorization 76M 30049150
- Statement of Claim File 76M 116758 00
- 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 Missoula Regional Office at 406-721-4284 to request copies of the following documents. The Department Technical Memorandum: Calculating Return Flow, can also be found in the Department's Change Manual.
 - Department Technical Memorandum: Calculating Return Flow, dated April 18, 2019

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, part 4, 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, POU means place of use, and POD means point of diversion.

WATER RIGHTS TO BE CHANGED

FINDINGS OF FACT

1. The Applicant proposes to temporarily change Statement of Claim 76M 30048497. In 2010, the owner of parent right 76M 116758-00 sold the Applicant 32 Miners Inches (359.04 GPM). A succeeding water right split (Form 641) was submitted to the Department in 2011 on behalf of parent right 76M 116758-00, creating the Applicant's water right 76M 30048497 (and child rights 76M 30048498 and 76M 30048499). The Water Court issued a Master's Report detailing the ownership split of parent right 76M 116758-00. The Court assigned the Applicant's child water right 76M 30048497 with a flow rate of 359.04 GPM and a place of use (POU) consisting of 21.10 acres in the S2NE Section 23, Township 15 North, Range 22 West. Statement

of Claim 76M 30048497 was included in the Preliminary Decree for Basin 76M issued October 9, 2024. The elements proposed for change are shown below:

Table 1: Water Right 76M 30048497 Proposed for Change

Water Right Number	Flow Rate	Diverted Volume	Purpose	Period Of Use	Place Of Use	Point Of Diversion	Priority Date
76M 30048497	359.04 GPM	208.15 AF	Irrigation	April 1 – October 31	S2NE Section 23, Township 15 North, Range 22 West, Missoula County	SWSEW Section 7, Township 15 North, Range 21 West, Missoula County	April 28, 1921

2. On October 25, 2011, the Department issued Change Authorization 76M 30049150 on behalf of right 76M 30048497. This prior authorization allowed the Applicant to temporarily change the purpose, POU and point of diversion (POD) from irrigation to instream flow for fisheries in Sixmile Creek for a period of 10 years. The Department determined that the historic irrigation flow rate of 359.04 GPM and the diverted volume of 208.15 AF were authorized for instream fishery purpose in a reach of Sixmile Creek from April 1 to October 31 annually. The protected reach extended from the historic POD to a location downstream 1.2 miles in the NWSEW, Section 12, Township 15 North, Range 22 West. The Department previously authorized the Applicant to use the historically consumed volume of 19.5 AF downstream of the historic POD.

3. The Applicant failed to file a notice of renewal with the Department for prior Change 76M 30049150, and the authorization expired December 31, 2021. As a result, right 76M 300498497 reverted to the originally claimed irrigation use. The Applicant has filed this change proposal to reinstate the prior temporary instream flow purpose.

4. The right proposed for change in this application is in the Sixmile Creek drainage, which is subject to an administrative water right basin closure. The basin closure rules described in ARM 36.12.1020 do not detail restrictions to water right change applications.

CHANGE PROPOSAL

FINDINGS OF FACT

5. The Applicant proposes to temporarily change the purpose of use, POU and POD for Statement of Claim 76M 30048497 from irrigation to instream flow for the benefit of the fishery resource in Sixmile Creek. The proposed change is temporary for a period of 10 years as described in § 85-2-408, MCA. The proposed POU is a protected reach of Sixmile Creek from this historical POD at the Lebert-Bissonette ditch headgate in the SWSEW Section 7, Township

15 North, Range 21 West, Missoula County, approximately 1.12 miles downstream to the next diversion on the creek. This protected reach would encompass the proposed PODs and POU, more specifically being the S2NE, SEENW, E2NESW, SWNESW, and NWSESW Section 12, Township 15 North, Range 22 West.

6. The historical POU of parent right 76M 116758-00 is no longer irrigated and the once irrigated field has been subdivided with several domestic residences having been constructed. In the documents submitted by the Applicant in the prior change authorization, the Applicant stated that the historic conveyance ditch blew out in 2000 and that the ditch was also cut by road construction around the same time. The Applicant also previously stated that an earthen dam was constructed immediately behind the historic POD and the historic conveyance ditch had been decommissioned.

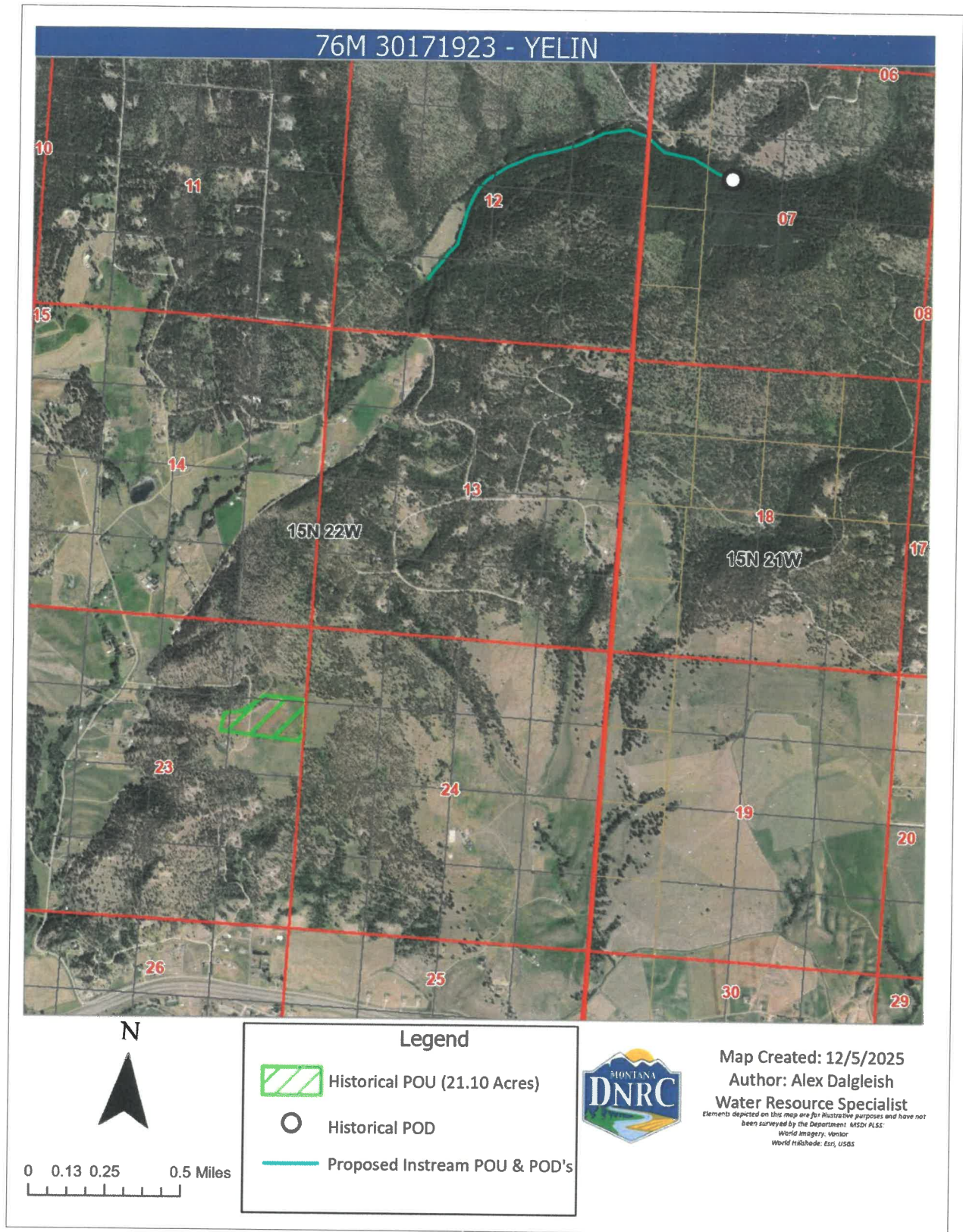


Figure 1. Historic and proposed use map

CHANGE CRITERIA

7. The Department is authorized to approve a change if the Applicant meets its burden to prove the applicable § 85-2-402, MCA, criteria by a preponderance of the evidence. *Matter of Royston*, 249 Mont. 425, 429, 816 P.2d 1054, 1057 (1991); *Hohenlohe v. DNRC*, 2010 MT 203, ¶¶ 33, 35, and 75, 357 Mont. 438, 240 P.3d 628 (an Applicant's burden to prove change criteria by a preponderance of evidence is "more probable than not."); *Town of Manhattan v. DNRC*, 2012 MT 81, ¶ 8, 364 Mont. 450, 276 P.3d 920. Under this Preliminary Determination, the relevant change criteria in § 85-2-402(2), MCA, are:

(2) Except as provided in subsections (4) through (6), (15), (16), and (18) and, if applicable, subject to subsection (17), the department shall approve a change in appropriation right if the appropriator proves by a preponderance of evidence that the following criteria are met:

(a) The proposed change in appropriation right will not adversely affect the use of the existing water rights of other persons or other perfected or planned uses or developments for which a permit or certificate has been issued or for which a state water reservation has been issued under part 3.

(b) The proposed means of diversion, construction, and operation of the appropriation works are adequate, except for: (i) a change in appropriation right for instream flow pursuant to 85-2-320 or 85-2-436; (ii) a temporary change in appropriation right for instream flow pursuant to 85-2-408; or (iii) a change in appropriation right pursuant to 85-2-420 for mitigation or marketing for mitigation.

(c) The proposed use of water is a beneficial use.

(d) 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 change involves 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. This subsection (2)(d) does not apply to: (i) a change in appropriation right for instream flow pursuant to 85-2-320 or 85-2-436; (ii) a temporary change in appropriation right for instream flow pursuant to 85-2-408; or (iii) a change in appropriation right pursuant to 85-2-420 for mitigation or marketing for mitigation.

8. The evaluation of a proposed change in appropriation does not adjudicate the underlying right(s). The Department's change process only addresses the water right holder's ability to make a different use of that existing right. *E.g.*, *Hohenlohe*, ¶¶ 29-31; *Town of Manhattan*, ¶ 8; *In the Matter of Application to Change Appropriation Water Right No.41F-31227 by T-L Irrigation Company* (DNRC Final Order 1991).

9. In addition to the § 85-2-402(2), MCA,¹ an Applicant for a temporary change authorization for instream flow must comply with the requirements and conditions set forth in §§ 85-2-407 and -408, MCA. Section 85-2-408, MCA provides in part:

(1) The department shall accept and process an application for a temporary change in appropriation rights to maintain or enhance instream flow to benefit the fishery resource under the provisions of **85-2-402**, **85-2-407**, and this section. The application must:

(a) include specific information on the length and location of the stream reach in which the streamflow is to be maintained or enhanced; and

(b) provide a detailed streamflow measuring plan that describes the point where and the manner in which the streamflow must be measured.

(2) (a) A temporary change authorization under the provisions of this section is allowable only if the owner of the water right voluntarily agrees to:

(i) change the purpose of a consumptive use water right to instream flow for the benefit of the fishery resource; or

(ii) lease a consumptive use water right to another person for instream flow to benefit the fishery resource.

(3) In addition to the requirements of **85-2-402** and **85-2-407**, an Applicant for a change authorization under this section shall prove by a preponderance of evidence that:

(a) the temporary change authorization for water to maintain and enhance instream flow to benefit the fishery resource, as measured at a specific point, will not adversely affect the water rights of other persons; and

(b) the amount of water for the proposed use is needed to maintain or enhance instream flows to benefit the fishery resource.

(5) The department shall approve the method of measurement of the water to maintain and enhance instream flow to benefit the fishery resource through a temporary change authorization as provided in this section.

.....

(8) The maximum quantity of water that may be changed to maintain and enhance streamflows to benefit the fishery resource is the amount historically diverted. However, only the amount historically consumed, or a smaller amount if specified by the department in the lease authorization, may be used to maintain or enhance streamflows to benefit the fishery resource below the existing point of diversion.

10. Pursuant to §§ 85-2-407, and -408, MCA, a temporary change for authorization for instream flow is subject to special conditions which are identified above and addressed in the sections below. The evaluation of a proposed change in appropriation does not adjudicate the underlying right(s). The Department's change process only addresses the water right holder's

¹ Pursuant to §§ 85-2-402 (2)(b) and -402(2)(d), MCA, the Applicant is not required to prove that the proposed means of diversion, construction, and operation of the appropriation works are adequate and is not required to prove possessory interest in the place of use because this application involves a temporary change in appropriation right for instream flow pursuant to § 85-2-408, MCA.

ability to make a different use of that existing right. *E.g., Hohenlohe, ¶¶ 29-31; Town of Manhattan, ¶ 8.*

HISTORICAL USE

FINDINGS OF FACT

11. Statement of Claim 76M 30048497 was split from parent right 76M 116758-00 in 2011. Under parent right 76M 116758-00, water was historically diverted from Sixmile Creek with a headgate in the SWSEW Section 7, Township 15 North, Range 21 West, Missoula County for flood irrigation. Parent right 76M 116758-00 was decreed with a priority of 10/9/1880 and a flow rate of 2.8 CFS for flood irrigation of a maximum of 74 acres by the Water Court in the Temporary Preliminary Decree issued for Basin 76M on November 29, 1984. Water was historically diverted from Sixmile Creek using a 36-inch culvert and headgate. In the prior change application, the Applicant demonstrated that the 36-inch culvert could convey up to 5.44 CFS of water at full capacity and between 2.92 to 3.18 CFS when the water depth in the culvert was 2 feet. Water was conveyed approximately 3 miles in the Lebert-Bissonette ditch to the POU for flood irrigation.
12. Child right 76M 30048497 is a filed right and was part of the 2024 Preliminary Decree for Basin 76M. The priority date was modified from October 9, 1880 to April 28, 4/28/1921 through Water Court Case WC 2012-01. Claim 76M 30048497 was decreed without a POU pursuant to the 2011 Master's Report from the Water Court because the claimant of parent right 76M 116758-00 (and subsequently the owner of child right 76M 30048497) did not own the historic POU. However, in their Report, the Water Court ascertained the POU legal land description of child right 76M 30048497 as 21.10 acres in the S2NE Section 23, Township 15 North, Range 22 West, Missoula County.
13. Prior change authorization 76M 30049150 was granted for claim 76M 30048497, temporarily changing the POU, POD and purpose to instream flow for a period of 10 years. In this previous authorization, the Department confirmed 62 irrigated acres through the examination of the 1960 Missoula County Water Resources Survey. The Department also reviewed a 1979 aerial photo and found a maximum of 52 irrigated acres under parent right 76M 116758 00. The Applicant previously conducted a field examination and found 58 historically irrigated acres and the Department recognized these 58 acres as the maximum use under parent right 76M 116758-00.
14. For this proposal, the Applicant agreed to use the Department's prior findings of historic use determined in change authorization 76M 30049150. The Department previously calculated

the historical consumed volume for parent right 76M 116758-00 following the methods described in ARM 36.12.1902 (16). Based on 58 acres of flood irrigation, an IWR for flood irrigation at the Missoula International Airport weather station in Missoula County of 19.45 inches, and a county management factor of 69.5%, the historical consumptive volume for the irrigated acres under parent right 76M 116758-00 was 65.54 AF (58 AC x 19.45 in/12in/ft x 0.695 = 65.54 AF). The Department also previously calculated evaporative losses from the conveyance ditch and found 2.73 AF of losses. The total consumptive use for parent right 76M 116758-00 was previously calculated to be 68.27 AF (65.54 AF + 2.73 AF). In the prior change authorization, the Department did not calculate the field applied volume or irrecoverable losses for parent right 76M 116758-00. In this proposal, the Department calculated the field applied volume to be 119.16 AF using 55% field efficiency of flood irrigation with contour ditch (65.54 AF/0.55=119.16 AF). The Department also determined the applied but non-consumed volume to be 50.89 AF for this change proposal (119.16 AF – 68.27 AF = 50.89 AF). Since the Applicant is using the prior historic use analyses, the Department maintains the historic consumptive volume of 68.27 AF calculated for parent right 76M 116758-00.

15. The Applicant was deeded 32 Miners Inches (359.04 GPM or 0.8 CFS) and up to 39.04 AF of the parent right 76M 116758-00. The Applicant’s share of the 2.8 CFS (1,256.64 GPM) from parent right 76M 116758-00 was determined to be 28.57% (359.04 GPM /1256.64 GPM). Based on this percentage of the flow rate, the Applicant’s share of the historical consumed volume was determined to be 19.5 AF (68.27 AF * .2857). Table 1 below summarizes the historical use for right 76M 116758-00. Table 2 summarizes the historical use under child right 76M 30048497 based on the Applicants proportion of 28.57% under right 76M 30048497.

Table 1: Historical use of Parent Right 76M 116758 00

Irrigation Method	Acres	IWR (in) ¹	Mgmt. Factor ²	Field Efficiency	Crop Cons. (AF)	Applied Volume (AF)	Ditch Evap. (AF)	Total Consumed Volume (AF)	Applied but Non-Consumed Volume (AF)
Flood	58	19.45	69.5	55%	65.54	119.16	2.73	68.27	50.89

¹Missoula WSO AP IWR Weather Station

²Missoula County Historical Use Management Factor (pre-July 1, 1973)

Table 2: Historical volumes attributed to child right 76M 30048497

Crop Consumption (AF)	Applied Volume (AF)	Ditch Evap. (AF)	Total Consumed Volume (AF)	Non-Consumed Volume (AF)
18.72	34.04	0.80	19.5	14.53

16. The period of diversion for parent right 76M 116758-00 (and child right 76M 30048497) is April 1 through October 31, or 214 days. Per the previous change authorization, *“Water was only diverted into the ditch for 144 to 164 days on average due to haying and drying, a common irrigation practice in this area. The Applicant provided flow data taken during various months in 2010 and 2011 to demonstrate flows in Sixmile Creek that would typically be available at the historic point of diversion. Since no measurements were recorded regarding stream flow and diverted flow prior to 1973, it is reasonable to assume that flow measurements taken during 2010 and 2011 are representative of pre-1973 stream flows. The Applicant’s measurements show flows in Sixmile Creek ranging from 5.23 CFS in May to a low of 2.2 CFS in late August. Based on available flows and past irrigation practices, the Applicant estimates that 2.8 CFS was diverted over a period of 84 days during April, May, and June, prior to first cutting of hay, and that 2.2 CFS was diverted over a period of 60 days during July, August, and September, for a total diverted volume of 728.3 AF”*. The volume of water diverted with a flow rate of 2.8 CFS over 84 days equates to a volume of 466.5 AF ($2.8 \text{ CFS} \times 60 \text{ seconds/1 minute} \times 24 \text{ hours/1 day} \times 84 \text{ days/1 year} \times 1 \text{ acre/43,560 ft}^2 = 466.5 \text{ AF}$). During lower flow months when 2.2 CFS was diverted, this is equal to a volume of 261.8 AF ($2.2 \text{ CFS} \times 60 \text{ seconds/1 minute} \times 24 \text{ hours/1 day} \times 60 \text{ days/1 year} \times 1 \text{ acre/43,560 ft}^2 = 261.8 \text{ AF}$). The total diverted volume under parent right 76M 116758-00 was 728.3 AF (466.5 + 261.8).

17. Historical diverted volume is equal to the sum of the field application volume and the volume of conveyance losses per ARM 36.12.1902(10). The Department’s prior historical analyses did not include a calculation of conveyance losses (evaporative, seepage, vegetative) attributed to the diverted volume. Nonetheless, the Applicant requested to use the historical diverted volume figure previously determined for their right. From the diverted volume of 728.3 AF under 76M 116758-00, the portion attributed to the Applicants right was determined to be 208.15 AF ($728.3 \text{ AF} \times 0.2858 = 208.15$).

Table 3. Summary of historical use findings for 76M 30048497

Water Right	Priority Date	Diverted Volume	Flow Rate	Purpose (Total Acres)	Consumptive Use	Place of Use	Point of Diversion
76M 30048497	4/28/1921	208.15 AF	359.04 GPM	21.10	19.5 AF	S2NE Sec. 23, T15N, R22W, Missoula County	SWSENW Sec. 7, T15N, R21W, Missoula County

ADVERSE EFFECT

FINDINGS OF FACT

18. The Applicant proposes to temporarily change Statement of Claim 76M 30048497 to instream flow to benefit fishery resources for water from Sixmile Creek. The protected reach proposed for this purpose is from the historical headgate in the SWSENW Section 7, Township 15 North, Range 21 West, to a point downstream at the next diversion on the creek in the NWSESW Section 12, Township 15 North, Range 21 West. The full diverted volume of 208.15 AF and the flow rate of 359.04 GPM will be left in stream. The historically irrigated acres will no longer be irrigated as the historic conveyance ditch has been decommissioned through the construction of an earthen dam just down-gradient from the headgate. This dam blocks water from flowing in the ditch. The requested change will not adversely affect downstream users because water is now being left in the creek, resulting in higher flows that will be available for appropriation below the protected reach. During the time the prior change was authorized (2011-2021), the Department did not receive any documented calls for water on behalf of right 76M 30048497.

19. In the Technical Analyses Report – Part B, the Department calculated the historical return flows of Statement of Claim 76M 30048497 to be 14.53 AF. Of this volume, 11.62 AF returned to Sixmile Creek, and 2.91 AF accrued to the Clark Fork River. The Department determined that the point where return flows entered Sixmile Creek is the SWNENW of Section 23, Township 15 North, Range 22 West. This location is downstream from the lower end of the protected reach. Since water is left instream, the historically diverted flows are available below the point of diversion during the historic period of diversion. The Department did not find that junior users on Sixmile Creek were historically depending on return flows from irrigation under 76M 30048497.

20. Those return flows entering the Clark Fork River began in the NWSWNE Section 26, Township 15 North, Range 22 West. The Applicant is leaving the entire historically diverted volume in Sixmile Creek, which is tributary to the Clark Fork River. There are no diversion on the

local reach of the Clark Fork River that have benefited or relied on the Applicant's return flows that could be adversely affected.

21. Return flows are evaluated by determining the volume of water that infiltrates past the root zone and identifying the likely receiving stream(s). The assumption is made that water applied for irrigation that is not consumed by a crop infiltrates to groundwater becoming return flow and does not runoff. The amount of water consumed is the difference between the amount of water consumed and the amount of water applied to the field. The receiving waterways for return flows are determined by their proximity to and evidence of hydraulic connection to groundwater and generally does not depend on groundwater flow direction or land slope.

22. For the purposes of this Application, a limited return flow analysis was performed to determine whether water left instream so that historically diverted flows are available during the historic period of diversion either below the point of diversion or where return flows historically returned to the source. The Department determined that the Applicant will protect the entire historically diverted volume of 208.15 AF for their water right, as it will be left instream below the historical POD and that there are no existing rights on the affected reach of the Clark Fork River.

23. Per the Department's Policy Memorandum on Return Flows, dated April 18, 2019, no further return flow analyses will be undertaken by the Department unless a valid objection is received, provided there will be no enlargement of the amounts of water historically diverted or consumed.

24. The Department considered an area of potential adverse effect on the source of supply. This reach was determined by accounting for the location of the historical point and proposed points of diversion. The area of potential adverse effect is the proposed protected reach. This reach extends from the historical POD on Sixmile Creek in the SWSEW of Section 7, Township 15 North, Range 21 West, downstream approximately 1.12 miles to the next diversion on the creek (located in the NWSEW of Section 12, Township 15 North, Range 21 West. There are no rights diverting water from Sixmile Creek within the proposed protected reach.

25. During the term of this proposed temporary change, the 21.10-acre historical POU will be retired from irrigation and the total flow rate and historical diverted volume of up to 359.04 GPM and 208.15 AF will be left instream at the historical POD at the Lebert-Bissonnette ditch headgate in Sixmile Creek. The proposed instream fishery period of use is April 15 to October 31 annually. The Applicant proposes to continue measuring water at the historical POD headgate in the SWSEW Section 7, Township 15 North, Range 21 West, as required by § 85-2-408 (1)(b), MCA.

The Applicant also states that they will continue measuring water in the E2SW Section 12, Township 15 North, Range 22 West, where Sixmile Creek crosses the State land property boundary. Staff gages are present at the historic POD and State land boundary location, and the Applicant proposes to measure water using a Marsh McBirney flow meter. Once the meter is used and a stage rating curve is developed, the Applicant can visually read the staff gages to obtain measurements. If the flow rate is unknown, the Applicant states they will provide rating charts to the Department. Finally, the Applicant states that staff gage readings will occur quarterly to verify compliance and more often during extreme low flow periods if a call for water is implemented.

26. Under the prior change authorization, the Applicant was required to measure the flow rate of Sixmile Creek at the historic POD. Continued flow rate monitoring and measurements at the historic POD will ensure that water rights within the protected reach are not adversely affected. This application will be subject to the following measurement condition:

THE APPLICANT OR IT'S DESIGNEE SHALL MEASURE THE PROTECTED REACH OF SIXMILE CREEK BY TAKING FLOW MEASUREMENTS AT THE LEBERT – BISSONETTE DITCH HEADGATE WHICH IS LOCATED IN THE SWSEW, SEC 7, TWP 15N, RGE 21W, MISSOULA COUNTY. MEASUREMENTS WILL BE TAKEN MONTHLY FROM JUNE THROUGH SEPTEMBER. THIS CHANGE AUTHORIZATION, ALLOWS FOR A CALL FOR WATER FROM UPSTREAM JUNIOR SIXMILE CREEK WATER USERS WHEN THE STREAM FLOW MEASURED ON SIXMILE CREEK BY THE APPLICANT OR IT'S DESIGNEE FALLS BELOW 2.05 CFS WITHIN THE AFOREMENTIONED TIMEFRAME. THE RECORDED FLOW RATE MEASUREMENTS MUST BE SENT TO THE DNRC MISSOULA REGIONAL OFFICE BY NOVEMBER 30 EACH YEAR DURING THE TEMPORARY CHANGE AUTHORIZATION.

27. The Department may approve a change in appropriation right if the Applicant proves by a preponderance of evidence that the proposed change will not adversely affect the use of existing water rights pursuant to 85-2-4023(2)(a). The Applicant must also demonstrate that “the temporary change authorization for water to maintain and enhance instream flow to benefit the fishery resource, as measured at a specific point, will not adversely affect the water rights of other persons.” § 85-2-408(3)(a), MCA. If any water right holder believes they will be adversely affected by a change in timing and the amount of return flows resulting from this proposal, they may file an objection to the proposed project pursuant to 85-2-307(3), and § 85-2-308, MCA.

28. The Department finds that the Applicant’s proposal will not result in adverse effects to other water rights.

BENEFICIAL USE

FINDINGS OF FACT

29. The Applicant proposes to temporarily change water right 76M 30048497 to instream flow purpose to protect, maintain or enhance stream flows to benefit the fishery resource of Sixmile Creek. Instream flow to benefit fishery resource is a recognized beneficial use of water in the State of Montana under § 85-2-102, MCA. The Applicant proposes to protect 359.04 GPM up to 208.15 AF at the historic POD and 359.04 GPM and 19.5 AF below the POD for a length of 1.12 miles down to the next downstream junior user.

30. In prior change authorization 76M 30049150, the Applicant provided a letter from Montana Fish, Wildlife and Parks (FWP) biologist Ladd Knotek in support of the proposed change to instream flow. According to Mr. Knotek, the reach of stream proposed for instream use supports a viable aquatic community, including Westslope Cutthroat Trout with high genetic purity, and that the proposed change to instream flow would assist in maintaining flows in this critically dewatered reach. While this letter was not resubmitted as part of the materials for this application, it is reasonable that FWP will continue supporting the proposal to maintain additional instream flows in Sixmile Creek. Re-establishing the temporary instream flow will continue to support the aquatic community in the creek.

31. The Sixmile Creek basin is closed to new appropriations of surface water for consumptive use from June 1- September 15 each year. The Applicant's proposal to leave 359.04 GPM up to 208.15 AF diverted volume in the proposed protected reach would benefit Sixmile Creek. The Department finds the Applicant's proposal is reasonable to accomplish fisheries, habitat, and streamflow improvements through the irrigation season in Sixmile Creek

32. The Department finds the proposed temporary appropriation of 359.04 GPM up to a volume of 208.15 AF for the purposes of enhancing and augmenting streamflows for the benefit of the fishery resource in the instream place of use in Sixmile Creek to be a beneficial use of water.

ADEQUATE DIVERSION

FINDINGS OF FACT

33. The proposed change of 76M 30048497 does not require a means of diversion or conveyance. Per § 85-2-402(2)(b), MCA, a change in appropriation right for instream flow pursuant to § 85-2-408, MCA, is exempt from the adequacy of diversion criterion.

POSSESSORY INTEREST

FINDINGS OF FACT

34. Pursuant to § 85-2-402(2)(d), MCA, the Applicant is not required to prove that they have 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 because this application involves a change in appropriation right for instream flow per § 85-2-408, MCA.

TEMPORARY PROTECTED REACH/ MEASUREMENT PLAN

FINDINGS OF FACT

35. The Applicant is proposing to temporarily change the purpose and place of use of 76M 30048497 to instream flow for the benefit of the fishery resource in Sixmile Creek for a period of 10 years with the option to renew. During the term of this temporary change, the Applicant proposes to cease diversion at the historical POD. A flow rate of 359.04 GPM and up to 208.15 AF of diverted volume will be available in the protected reach. After this change, the Applicant will appropriate 359.04 GPM in the proposed 1.12-mile instream place of use in Sixmile Creek, which will extend from the SWSNW of Section 7, Township 15N, Range 21 West, to the NWSESW of Section 12, Township 15 North, Range 21 West. The proposed period of use is April 1 through October 31. The volume available to be appropriated instream is 208.15 AF.

36. The Applicant will monitor flow rates and volumes appropriated for the instream flow purpose by measuring flow in Sixmile Creek at the historic headgate/POD with staff gages and if necessary, a Marsh McBirney flow meter. A staff gage is currently present at this location and streamflow measurements will continue to be taken by the Applicant (as required by prior change authorization 76M 30049150). A rating chart can be supplied to DNRC upon completion of several measurements.

37. The Applicant proposes to protect 359.04 GPM up to 208.15 AF at the historic POD and 359.04 GPM and 19.5 AF below the POD for a length of 1.12 miles down to the next downstream junior user.

38. If authorized, the following condition will be added to the water right to satisfy the additional measurement plan criterion described in § 85-2-408, MCA for temporary change to instream flow:

THE APPLICANT OR IT'S DESIGNEE SHALL MEASURE THE PROTECTED REACH OF SIXMILE CREEK BY TAKING FLOW MEASUREMENTS AT THE LEBERT – BISSONETTE DITCH HEADGATE WHICH IS LOCATED IN THE SWSNW, SEC 7, TWP 15N, RGE 21W, MISSOULA COUNTY. MEASUREMENTS WILL BE TAKEN MONTHLY FROM JUNE

THROUGH SEPTEMBER. THIS CHANGE AUTHORIZATION, ALLOWS FOR A CALL FOR WATER FROM UPSTREAM JUNIOR SIXMILE CREEK WATER USERS WHEN THE STREAM FLOW MEASURED ON SIXMILE CREEK BY THE APPLICANT OR IT'S DESIGNEE FALLS BELOW 2.05 CFS WITHIN THE AFOREMENTIONED TIMEFRAME. THE RECORDED FLOW RATE MEASUREMENTS MUST BE SENT TO THE DNRC MISSOULA REGIONAL OFFICE BY NOVEMBER 30 EACH YEAR DURING THE TEMPORARY CHANGE AUTHORIZATION.

39. The Department finds the Applicant has met the additional criteria for a temporary change in appropriation right to maintain or enhance instream flow to benefit a fishery resource under the provisions of § 85-2-408, MCA.

CONCLUSIONS OF LAW

HISTORICAL USE AND ADVERSE EFFECT

40. Montana's change statute codifies the fundamental principles of the Prior Appropriation Doctrine. Sections 85-2-401 and -402(1)(a), MCA, authorize changes to existing water rights, permits, and water reservations subject to the fundamental tenet of Montana water law that one may change only that to which he or she has the right based upon beneficial use. A change to an existing water right may not expand the consumptive use of the underlying right or remove the well-established limit of the appropriator's right to water actually taken and beneficially used. An increase in consumptive use constitutes a new appropriation and is subject to the new water use permit requirements of the MWUA. *McDonald v. State*, 220 Mont. 519, 530, 722 P.2d 598, 605 (1986) (beneficial use constitutes the basis, measure, and limit of a water right); *Featherman v. Hennessy*, 43 Mont. 310, 316-17, 115 P. 983, 986 (1911) (increased consumption associated with expanded use of underlying right amounted to new appropriation rather than change in use); *Quigley v. McIntosh*, 110 Mont. 495, 103 P.2d 1067, 1072-74 (1940) (appropriator may not expand a water right through the guise of a change – expanded use constitutes a new use with a new priority date junior to intervening water uses); *Allen v. Petrick*, 69 Mont. 373, 222 P. 451(1924) (“quantity of water which may be claimed lawfully under a prior appropriation is limited to that quantity within the amount claimed which the appropriator has needed, and which within a reasonable time he has actually and economically applied to a beneficial use. . . . it may be said that the principle of beneficial use is the one of paramount importance . . . The appropriator does not own the water. He has a right of ownership in its use only”); *Town of Manhattan*, ¶ 10 (an

appropriator's right only attaches to the amount of water actually taken and beneficially applied).²

41. Sections 85-2-401(1) and -402(2)(a), MCA, codify the prior appropriation principles that Montana appropriators have a vested right to maintain surface and ground water conditions substantially as they existed at the time of their appropriation; subsequent appropriators may insist that prior appropriators confine their use to what was actually appropriated or necessary for their originally intended purpose of use; and, an appropriator may not change or alter its use in a manner that adversely affects another water user. *Spokane Ranch & Water Co. v. Beatty*, 37 Mont. 342, 96 P. 727, 731 (1908); *Quigley*, 110 Mont. at 505-11, 103 P.2d at 1072-74; *Matter of Royston*, 249 Mont. at 429, 816 P.2d at 1057; *Hohenlohe*, ¶¶ 43-45.³

42. The cornerstone of evaluating potential adverse effect to other appropriators is the determination of the "historic use" of the water right being changed. *Town of Manhattan*, ¶10 (recognizing that the Department's obligation to ensure that change will not adversely affect other water rights requires analysis of the actual historic amount, pattern, and means of water use). A change Applicant must prove the extent and pattern of use for the underlying right proposed for change through evidence of the historic diverted amount, consumed amount, place of use, pattern of use, and return flow because a statement of claim, permit, or decree may not include the beneficial use information necessary to evaluate the amount of water available for change or potential for adverse effect.⁴ A comparative analysis of the historic use of the water right to the proposed change in use is necessary to prove the change will not result in expansion of the original right, or adversely affect water users who are entitled to rely upon maintenance of conditions on the source of supply for their water rights. *Quigley*, 103 P.2d at 1072-75 (it is necessary to ascertain historic use of a decreed water right to determine whether a change in use expands the underlying right to the detriment of other water user because a decree only provides a limited description of the right); *Royston*, 249 Mont. at 431-32, 816 P.2d at 1059-60 (record could not sustain a conclusion of no adverse effect because the Applicant failed to provide the

² DNRC decisions are available at: <https://dnrc.mt.gov/Directors-Office/HearingOrders>

³ See also *Holmstrom Land Co., Inc., v. Newlan Creek Water District*, 185 Mont. 409, 605 P.2d 1060 (1979); *Lokowich v. Helena*, 46 Mont. 575, 129 P. 1063 (1913); *Thompson v. Harvey*, 164 Mont. 133, 519 P.2d 963 (1974) (plaintiff could not change his diversion to a point upstream of the defendants because of the injury resulting to the defendants); *McIntosh v. Graveley*, 159 Mont. 72, 495 P.2d 186 (1972) (appropriator was entitled to move his point of diversion downstream, so long as he installed measuring devices to ensure that he took no more than would have been available at his original point of diversion); *Head v. Hale*, 38 Mont. 302, 100 P. 222 (1909) (successors of the appropriator of water appropriated for placer mining purposes cannot so change its use as to deprive lower appropriators of their rights, already acquired, in the use of it for irrigating purposes); and, *Gassert v. Noyes*, 18 Mont. 216, 44 P. 959 (1896) (change in place of use was unlawful where reduced the amount of water in the source of supply available which was subject to plaintiff's subsequent right).

⁴ A claim only constitutes *prima facie* evidence for the purposes of the adjudication under § 85-2-221, MCA. The claim does not constitute *prima facie* evidence of historical use in a change proceeding under § 85-2-402, MCA. For example, most water rights decreed for irrigation are not decreed with a volume and provide limited evidence of actual historic beneficial use. Section 85-2-234, MCA

Department with evidence of the historic diverted volume, consumption, and return flow); *Hohenlohe*, ¶ 44-45; Town of Manhattan v. DNRC, Cause No. DV-09-872C, Montana Eighteenth Judicial District Court, *Order Re Petition for Judicial Review*, Pgs. 11-12 (proof of historic use is required even when the right has been decreed because the decreed flow rate or volume establishes the maximum appropriation that may be diverted, and may exceed the historical pattern of use, amount diverted or amount consumed through actual use); Matter of Application For Beneficial Water Use Permit By City of Bozeman, *Memorandum*, Pgs. 8-22 (Adopted by DNRC *Final Order* January 9, 1985)(evidence of historic use must be compared to the proposed change in use to give effect to the implied limitations read into every decreed right that an appropriator has no right to expand his appropriation or change his use to the detriment of juniors).⁵

43. An Applicant must also analyze the extent to which a proposed change may alter historic return flows for purposes of establishing that the proposed change will not result in adverse effect. The requisite return flow analysis reflects the fundamental tenant of Montana water law that once water leaves the control of the original appropriator, the original appropriator has no right to its use and the water is subject to appropriation by others. *E.g.*, *Hohenlohe*, ¶ 44; *Rock Creek Ditch & Flume Co. v. Miller*, 93 Mont. 248, 17 P.2d 1074, 1077 (1933); *Newton v. Weiler*, 87 Mont. 164, 286 P. 133 (1930); *Popham v. Holloron*, 84 Mont. 442, 275 P. 1099, 1102 (1929); *Galiger v. McNulty*, 80 Mont. 339, 260 P. 401 (1927); *Head v. Hale*, 38 Mont. 302, 100 P. 222 (1909);

⁵ Other western states likewise rely upon the doctrine of historic use as a critical component in evaluating changes in appropriation rights for expansion and adverse effect: Pueblo West Metropolitan District v. Southeastern Colorado Water Conservancy District, 717 P.2d 955, 959 (Colo. 1986)("[O]nce an appropriator exercises his or her privilege to change a water right ... the appropriator runs a real risk of requantification of the water right based on actual historical consumptive use. In such a change proceeding a junior water right ... which had been strictly administered throughout its existence would, in all probability, be reduced to a lesser quantity because of the relatively limited actual historic use of the right."); Santa Fe Trail Ranches Property Owners Ass'n v. Simpson, 990 P.2d 46, 55 -57 (Colo., 1999); Farmers Reservoir and Irr. Co. v. City of Golden, 44 P.3d 241, 245 (Colo. 2002)("We [Colorado Supreme Court] have stated time and again that the need for security and predictability in the prior appropriation system dictates that holders of vested water rights are entitled to the continuation of stream conditions as they existed at the time they first made their appropriation); Application for Water Rights in Rio Grande County, 53 P.3d 1165, 1170 (Colo. 2002); Wyo. Stat. § 41-3-104 (When an owner of a water right wishes to change a water right ... he shall file a petition requesting permission to make such a change The change ... may be allowed provided that the quantity of water transferred ... shall not exceed the amount of water historically diverted under the existing use, nor increase the historic rate of diversion under the existing use, nor increase the historic amount consumptively used under the existing use, nor decrease the historic amount of return flow, nor in any manner injure other existing lawful appropriators.); Basin Elec. Power Co-op. v. State Bd. of Control, 578 P.2d 557, 564 -566 (Wyo, 1978) (a water right holder may not effect a change of use transferring more water than he had historically consumptively used; regardless of the lack of injury to other appropriators, the amount of water historically diverted under the existing use, the historic rate of diversion under the existing use, the historic amount consumptively used under the existing use, and the historic amount of return flow must be considered.)

Spokane Ranch & Water Co., 37 Mont. at 351-52, 96 P. at 731; *Hidden Hollow Ranch v. Fields*, 2004 MT 153, 321 Mont. 505, 92 P.3d 1185; ARM 36.12.101(56) (Return flow - that part of a diverted flow which is not consumed by the appropriator and returns underground to its original source or another source of water - is not part of a water right and is subject to appropriation by subsequent water users).⁶

44. Although the level of analysis may vary, analysis of the extent to which a proposed change may alter the amount, location, or timing return flows is critical in order to prove that the proposed change will not adversely affect other appropriators who rely on those return flows as part of the source of supply for their water rights. *Royston*, 249 Mont. at 431, 816 P.2d at 1059-60; *Hohenlohe*, at ¶¶ 45-46 and 55-6; *Spokane Ranch & Water Co.*, 37 Mont. at 351-52, 96 P. at 731.

45. In *Royston*, the Montana Supreme Court confirmed that an Applicant is required to prove lack of adverse effect through comparison of the proposed change to the historic use, historic consumption, and historic return flows of the original right. 249 Mont. at 431, 816 P.2d at 1059-60. More recently, the Montana Supreme Court explained the relationship between the fundamental principles of historic beneficial use, return flow, and the rights of subsequent appropriators as they relate to the adverse effect analysis in a change proceeding in the following manner:

The question of adverse effect under §§ 85-2-402(2) and -408(3), MCA, implicates return flows. A change in the amount of return flow, or to the hydrogeologic pattern of return flow, has the potential to affect adversely downstream water rights. There consequently exists an inextricable link between the “amount historically consumed” and the water that re-enters the stream as return flow. . . .

An appropriator historically has been entitled to the greatest quantity of water he can put to use. The requirement that the use be both beneficial and reasonable, however, proscribes this tenet. This limitation springs from a fundamental tenet of western water law-that an appropriator has a right only to that amount of water historically put to beneficial use-developed in concert with the rationale that each subsequent appropriator “is entitled to have the water flow in the same manner as when he located,” and the appropriator may insist that prior appropriators do not affect adversely his rights.

This fundamental rule of Montana water law has dictated the Department’s determinations in numerous prior change proceedings. The Department claims that historic consumptive use, as quantified in part by return flow analysis, represents a key element of proving historic beneficial use.

We do not dispute this interrelationship between historic consumptive use, return flow, and the amount of water to which an appropriator is entitled as limited by his

⁶ The Montana Supreme Court recently recognized the fundamental nature of return flows to Montana’s water sources in addressing whether the Mitchell Slough was a perennial flowing stream, given the large amount of irrigation return flow which feeds the stream. The Court acknowledged that the Mitchell’s flows are fed by irrigation return flows available for appropriation. *Bitterroot River Protective Ass’n, Inc. v. Bitterroot Conservation Dist.*, 2008 MT 377, ¶¶ 22, 31, 43, 346 Mont. 508, 198 P.3d 219,(citing *Hidden Hollow Ranch v. Fields*, 2004 MT 153, 321 Mont. 505, 92 P.3d 1185).

past beneficial use.

Hohenlohe, at ¶¶ 42-45 (internal citations omitted).

46. The Department's rules reflect the above fundamental principles of Montana water law and are designed to itemize the type evidence and analysis required for an Applicant to meet its burden of proof. ARM 36.12.1901 through 1903. These rules forth specific evidence and analysis required to establish the parameters of historic use of the water right being changed. ARM 36.12.1901 and 1902. The rules also outline the analysis required to establish a lack of adverse effect based upon a comparison of historic use of the water rights being changed to the proposed use under the changed conditions along with evaluation of the potential impacts of the change on other water users caused by changes in the amount, timing, or location of historic diversions and return flows. ARM 36.12.1901 and 1903.

47. Applicant seeks to change existing water rights represented by its Water Right Claims. The "existing water rights" in this case are those as they existed prior to July 1, 1973, because with limited exception, no changes could have been made to those rights after that date without the Department's approval. Analysis of adverse effect in a change to an "existing water right" requires evaluation of what the water right looked like and how it was exercised prior to July 1, 1973. In *McDonald v. State*, the Montana Supreme Court explained:

The foregoing cases and many others serve to illustrate that what is preserved to owners of appropriated or decreed water rights by the provision of the 1972 Constitution is what the law has always contemplated in this state as the extent of a water right: such amount of water as, by pattern of use and means of use, the owners or their predecessors put to beneficial use. . . . the Water Use Act contemplates that all water rights, regardless of prior statements or claims as to amount, must nevertheless, to be recognized, pass the test of historical, unabandoned beneficial use. . . . To that extent only the 1972 constitutional recognition of water rights is effective and will be sustained.

220 Mont. at 529, 722 P.2d at 604; see also *Matter of Clark Fork River Drainage Area*, 254 Mont. 11, 17, 833 P.2d 1120 (1992).

48. Water Resources Surveys were authorized by the 1939 legislature. 1939 Mont. Laws Ch. 185, § 5. Since their completion, Water Resources Surveys have been invaluable evidence in water right disputes and have long been relied on by Montana courts. *In re Adjudication of Existing Rights to Use of All Water in North End Subbasin of Bitterroot River Drainage Area in Ravalli and Missoula Counties*, 295 Mont. 447, 453, 984 P.2d 151, 155 (1999) (Water Resources Survey used as evidence in adjudicating of water rights); *Wareing v. Schreckendgust*, 280 Mont. 196, 213, 930 P.2d 37, 47 (1996) (Water Resources Survey used as evidence in a prescriptive

ditch easement case); *Olsen v. McQueary*, 212 Mont. 173, 180, 687 P.2d 712, 716 (1984) (judicial notice taken of Water Resources Survey in water right dispute concerning branches of a creek).

49. While evidence may be provided that a particular parcel was irrigated, the actual amount of water historically diverted and consumed is critical. *E.g.*, *In the Matter of Application to Change Water Right No. 41H 1223599 by MGRR #1, LLC.*, DNRC Proposal for Decision adopted by Final Order (2005). The Department cannot assume that a parcel received the full duty of water or that it received sufficient water to constitute full-service irrigation for optimum plant growth. Even when it seems clear that no other rights could be affected solely by a particular change in the location of diversion, it is essential that the change also not enlarge an existing right. *See MacDonald*, 220 Mont. at 529, 722 P.2d at 604; *Featherman*, 43 Mont. at 316-17, 115 P. at 986; *Trail's End Ranch, L.L.C. v. Colorado Div. of Water Resources*, 91 P.3d 1058, 1063 (Colo., 2004).

50. The Department has adopted a rule providing for the calculation of historic consumptive use where the Applicant proves by a preponderance of the evidence that the acreage was historically irrigated. ARM 36.12.1902(16). In the alternative an Applicant may present its own evidence of historic beneficial use. In this case Applicant has elected to proceed under ARM 36.12.1902. (FOF Nos.14-15).

51. If an Applicant seeks more than the historic consumptive use as calculated by ARM 36.12.1902(16), the Applicant bears the burden of proof to demonstrate the amount of historic consumptive use by a preponderance of the evidence. The actual historic use of water could be less than the optimum utilization represented by the calculated duty of water in any particular case. *E.g.*, *Application for Water Rights in Rio Grande County*, 53 P.3d 1165 (Colo., 2002) (historical use must be quantified to ensure no enlargement); *In the Matter of Application to Change Water Right No. 41H 1223599 by MGRR #1, LLC.*; *Orr v. Arapahoe Water and Sanitation Dist.*, 753 P.2d 1217, 1223-1224 (Colo., 1988) (historical use of a water right could very well be less than the duty of water); *Weibert v. Rothe Bros., Inc.*, 200 Colo. 310, 317, 618 P.2d 1367, 1371 - 1372 (Colo. 1980) (historical use could be less than the optimum utilization "duty of water").

52. Based upon the Applicant's evidence of historic use, the Applicant has proven by a preponderance of the evidence the historic use of 76M 30048497 to be a diverted volume of 208.15 AF, a historically consumed volume of 19.5 AF, and flow rate of 359.04 GPM. (FOF Nos. 14-17).

53. Based upon the Applicant's comparative analysis of historic water use and return flows to water use and return flows under the proposed change, the Applicant has proven that the

proposed change in appropriation right will not adversely affect the use of the existing water rights of other persons or other perfected or planned uses or developments for which a permit or certificate has been issued or for which a state water reservation has been issued. Section 85-2-402(2)(a), MCA. (FOF Nos. 18-28).

BENEFICIAL USE

54. A change Applicant must prove by a preponderance of the evidence the proposed use is a beneficial use. Sections 85-2-102(4) and -402(2)(c), MCA. Beneficial use is and has always been the hallmark of a valid Montana water right: “[T]he amount actually needed for beneficial use within the appropriation will be the basis, measure, and the limit of all water rights in Montana . . .” McDonald, 220 Mont. at 532, 722 P.2d at 606. The analysis of the beneficial use criterion is the same for change authorizations under §85-2-402, MCA, and new beneficial permits under §85-2-311, MCA. ARM 36.12.1801. The amount of water that may be authorized for change 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 (Mont. 1st Jud. Dist. Ct.) (2003) (*affirmed on other grounds*, 2005 MT 60, 326 Mont. 241, 108 P.3d 518); *Worden v. Alexander*, 108 Mont. 208, 90 P.2d 160 (1939); *Allen v. Petrick*, 69 Mont. 373, 222 P. 451(1924); *Sitz Ranch v. DNRC*, DV-10-13390,, *Order Affirming DNRC Decision*, Pg. 3 (Mont. 5th Jud. Dist. Ct.) (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); *Toohey v. Campbell*, 24 Mont. 13, 60 P. 396 (1900) (“The policy of the law is to prevent a person from acquiring exclusive control of a stream, or any part thereof, not for present and actual beneficial use, but for mere future speculative profit or advantage, without regard to existing or contemplated beneficial uses. He is restricted in the amount that he can appropriate to the quantity needed for such beneficial purposes.”); § 85-2-312(1)(a), MCA (DNRC is statutorily prohibited from issuing a permit for more water than can be beneficially used).

55. The Applicant proposes to use water for instream flow which is a recognized beneficial use. Section 85-2-102(5), MCA. The Applicant has proven by a preponderance of the evidence instream flow is a beneficial use and that 208.15 AF of diverted volume and 359.04 GPM flow rate of water requested is the amount needed to sustain the beneficial use. Section 85-2-402(2)(c), MCA (FOF Nos. 29-32).

ADEQUATE MEANS OF DIVERSION

56. Pursuant to § 85-2-402 (2)(b), MCA, the Applicant is not required to prove that the proposed means of diversion, construction, and operation of the appropriation works are adequate because this application involves a temporary change in appropriation right for instream flow pursuant to § 85-2-408 MCA.

POSSESSORY INTEREST

57. Pursuant to § 85-2-402(2)(d), MCA, the applicant is not required to prove 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 because this application involves a temporary change in appropriation right for instream flow pursuant to § 85-2-408 MCA.

PRELIMINARY DETERMINATION

Subject to the terms and analysis in this Preliminary Determination Order, the Department preliminarily determines that this Application to Change Water Right No. 76M 30171923 should be GRANTED subject to the following.

The Department determines the Applicant may temporarily change the POD, POU and purpose of use for Statement of Claim 76M 30048497. The Applicant proposes to retire the historical POD and POU. The proposed change is temporary for a period of ten years as described in § 85-2-408, MCA. The proposed purpose is instream flow to benefit fishery resources. The proposed POU is a protected reach of Sixmile Creek from this historical POD in the SWSENW Section 7, Township 15 North, Range 21 West, Missoula County, approximately 1.12 miles downstream to the next diversion on the creek. This reach would encompass the proposed POD's and POU's, more specifically being the S2NE, SESENW, E2NESW, SWNESW, and NWSESW Section 12, Township 15 North, Range 22 West. The period of use will remain April 1 through October 31 annually.

If granted, the following conditions would be added to the water right to satisfy the additional criteria for a temporary change to instream flow:

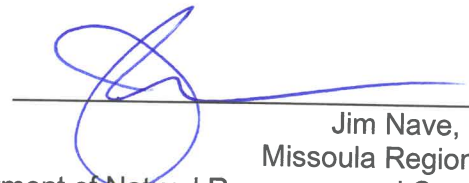
THE APPLICANT OR IT'S DESIGNEE SHALL MEASURE THE PROTECTED REACH OF SIXMILE CREEK BY TAKING FLOW MEASUREMENTS AT THE LEBERT – BISSONETTE DITCH HEADGATE WHICH IS LOCATED IN THE SWSENW, SEC 7, TWP 15N, RGE 21W, MISSOULA COUNTY. MEASUREMENTS WILL BE TAKEN MONTHLY FROM JUNE THROUGH SEPTEMBER. THIS CHANGE AUTHORIZATION, ALLOWS FOR A CALL FOR

WATER FROM UPSTREAM JUNIOR SIXMILE CREEK WATER USERS WHEN THE STREAM FLOW MEASURED ON SIXMILE CREEK BY THE APPLICANT OR IT'S DESIGNEE FALLS BELOW 2.05 CFS WITHIN THE AFOREMENTIONED TIMEFRAME. THE RECORDED FLOW RATE MEASUREMENTS MUST BE SENT TO THE DNRC MISSOULA REGIONAL OFFICE BY NOVEMBER 30 EACH YEAR DURING THE TEMPORARY CHANGE AUTHORIZATION.

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, 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 12 day of March 2026.

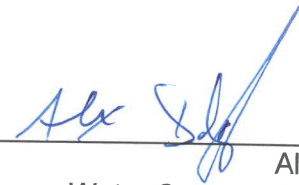


Jim Nave, Manager
Missoula Regional Office
Montana Department of Natural Resources and Conservation

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 12 day of March, 2026, by first class United States mail.

LEE YELIN
5890 KERR DR
MISSOULA, MT 59803



Alex Dagleish
Water Conservation Specialist
Missoula Regional Office
Alexander.dagleish@mt.gov | (406) 542-5886

Processing Materials

- Work copies of applicant-submitted information
- Deficiency letter
- Deficiency response
- Correct & complete determination
- Any correspondence with the applicant after application receipt and prior to sending the Draft PD

Processing Materials



Missoula Water Resources Regional Office
PO Box 5004
2705 Spurgin Road, Bldg. C
Missoula, MT 59806-5004
(406) 721-4284

January 12, 2026

Lee Yelin
5980 Kerr Dr
Missoula, MT 59803-3028

Subject: Correct and Complete Application for Change No. 76M 30171923

Dear Applicant,

The Department of Natural Resources and Conservation (Department) has determined that your application is correct and complete pursuant to ARM 36.12.1601. Please remember that correct and complete **does not mean that your application will be granted.** The purpose of this letter is to indicate that the Department has enough information to analyze your water right application.

The Department will issue a Draft Preliminary Determination within 60 days of the date of this letter per §85-2-307(2)(b), MCA.



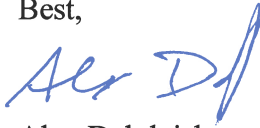
Following issuance of the Draft Preliminary Determination, you (Applicant) will have 15 business days to request an extension of time to submit additional information, if desired pursuant to §85-2-307(3)(a), MCA.

If no extension of time is requested and the Draft Preliminary Determination decision is to grant your application or grant your application in modified form, the Department will prepare a notice of opportunity to provide public comment, per §85-2-307(4)(a), MCA.

If no extension of time is requested and the Draft Preliminary Determination decision is to deny your application, the Department will adopt the Draft Preliminary Determination as the final determination per §85-2-307(3)(d)(ii), MCA.

If you have any questions or concerns about the application process, please contact me.

Best,



Alex Dagleish
Water Resource Specialist
Missoula Regional Office
(406)-542-5886
Alexander.dagleish@mt.gov



Dalgleish, Alex

From: Dalgleish, Alex
Sent: Monday, January 12, 2026 10:44 AM
To: Water Rights Inc.
Subject: RE: [EXTERNAL] Lee's 606 Deficiency
Attachments: A2_Correct&Complete_Letter 76M 30171923.pdf

Categories: Changes

John,

Your responses look sufficient, and I can accept these documents as your response. You do not need to mail in a copy of the letter and maps.

Attached is the letter notifying you that the Application is correct and complete (I will not be mailing a physical copy).

Please reach out with any questions.



Alex Dalgleish | Water Conservation Specialist II
Water Resources Division, Missoula Regional Office
Montana Department of Natural Resources and Conservation
2705 Spurgin Road, Bldg C
DESK: 406-542-5886 EMAIL: alexander.dalgleish@mt.gov
[Website](#) | [Facebook](#) | [X \(Twitter\)](#) | [Instagram](#)
How did we do? Let us know here: [Feedback Survey](#)

From: Water Rights Inc. <waterrightsinc@gmail.com>
Sent: Friday, January 9, 2026 3:34 PM
To: Dalgleish, Alex <Alexander.Dalgleish@mt.gov>
Subject: Re: [EXTERNAL] Lee's 606 Deficiency

Alex,

Thanks for the heads up on that POU and the shapefile. I wanted to run my draft past you to make sure there was nothing else before we emailed/mailed the formal copies in to make it complete. Let me know. Thanks!

John Hackethorn III

On Fri, Jan 9, 2026 at 11:32 AM Dalgleish, Alex <Alexander.Dalgleish@mt.gov> wrote:

Hey John,

In the Water Court's Masters Report detailing the split of parent right 76M 16758 00, on the bottom of page 2 the report mentions a color-coded map of the proposed acreage split. Looking back in the original file of 76M 116758 00, this color map shows the split of right 76M 116758 00 for all child rights. I've attached this map for reference.

I georeferenced the color map and outlined Lee's portion. Attached is my shapefile that you can use for your maps. While the Master's Report assigned 21.10 acres to child right 76M 30048497, the shapefile does not exactly match those acres. The map was the best representation of the 76M 30048497 acreage/portion.



Alex Dagleish | Water Conservation Specialist II

Water Resources Division, Missoula Regional Office

Montana Department of Natural Resources and Conservation

2705 Spurgin Road, Bldg C

DESK: 406-542-5886 **EMAIL:** alexander.dagleish@mt.gov

[Website](#) | [Facebook \[facebook.com\]](https://www.facebook.com) | [X \(Twitter \[twitter.com\]\)](https://twitter.com) | [Instagram \[instagram.com\]](https://www.instagram.com)

How did we do? Let us know here: [Feedback Survey \[forms.office.com\]](https://forms.office.com)

From: Water Rights Inc. <waterrightsinc@gmail.com>

Sent: Friday, January 9, 2026 10:09 AM

To: Dagleish, Alex <Alexander.Dagleish@mt.gov>

Subject: [EXTERNAL] Lee's 606 Deficiency

Alex,

I am looking at the deficiency you sent for Lee's 606 change for instream flow on child right 76M 30048497. Looking at question 17, you mention that the project overview map should only include the

POU of the child right. I represented the historical POU for the parent right as well as the instream flow "POU." If there is a place of use to represent for the child right, I would be happy to map it but I am not sure what that POU is given the abstract says it does not have a place of use in the remarks. Please let me know how to go about this. Thanks!

Sincerely,

--

John Hackethorn III

GIS Specialist

Water Rights, Inc.

Missoula, MT

Office: (406) 251-6100



WATER

Bus: (406) 251-6100

Fax: (406) 251-3191

E-mail: waterrightsinc@gmail.com

Web Site: waterrightsinc.net



RIGHTS, INC.

P.O. Box 9285 • Missoula, Montana 59807

January 9, 2026

Project No. R25-067

Alex Dalglish
Missoula Water Resources Regional Office
PO Box 5004
2705 Spurgin Road, Bldg. C
Missoula, MT 59806-5004

RE: Deficiency letter for Change Application No. 76M 30171923 (WR 76M 30048497)

Alex,

Thank you for the feedback on the change application (No. 76M 30171923) for Lee Yelin. Below is a response to all deficiencies noted.

Q 10: Thank you for the heads up. In the future we will make sure to attach all supporting documents, even if it is something already in the possession of the DNRC.

Q 17: Attached is a revised "Historical Use Map" and "Project Overview Map" focusing solely on the historical place of use for child right 76M 30048497 with the shapefile provided by the DNRC, rather than the historical POU for the parent right.

Q 36/606-IFA Q 5: We intend to use the Department's findings of diverted and consumed volumes as found in DNRC Technical Analysis.

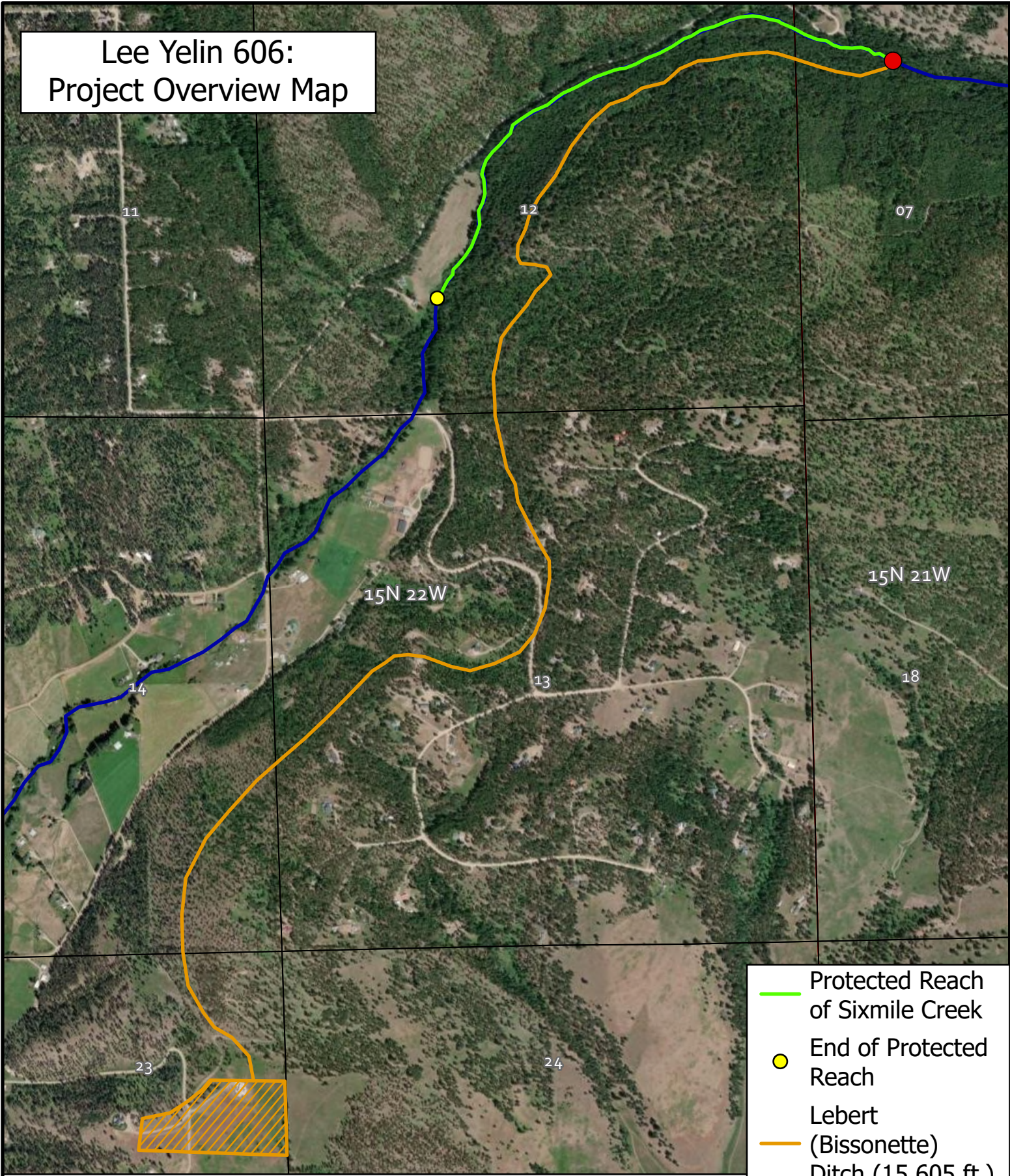
If there is anything else to be done to make this application complete, please let us know ASAP!

Sincerely,

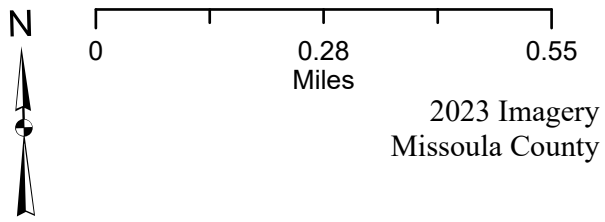
Lee Yelin
Senior Water Rights Specialist

LY/jh

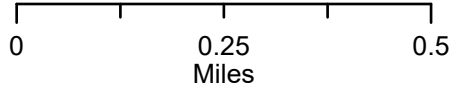
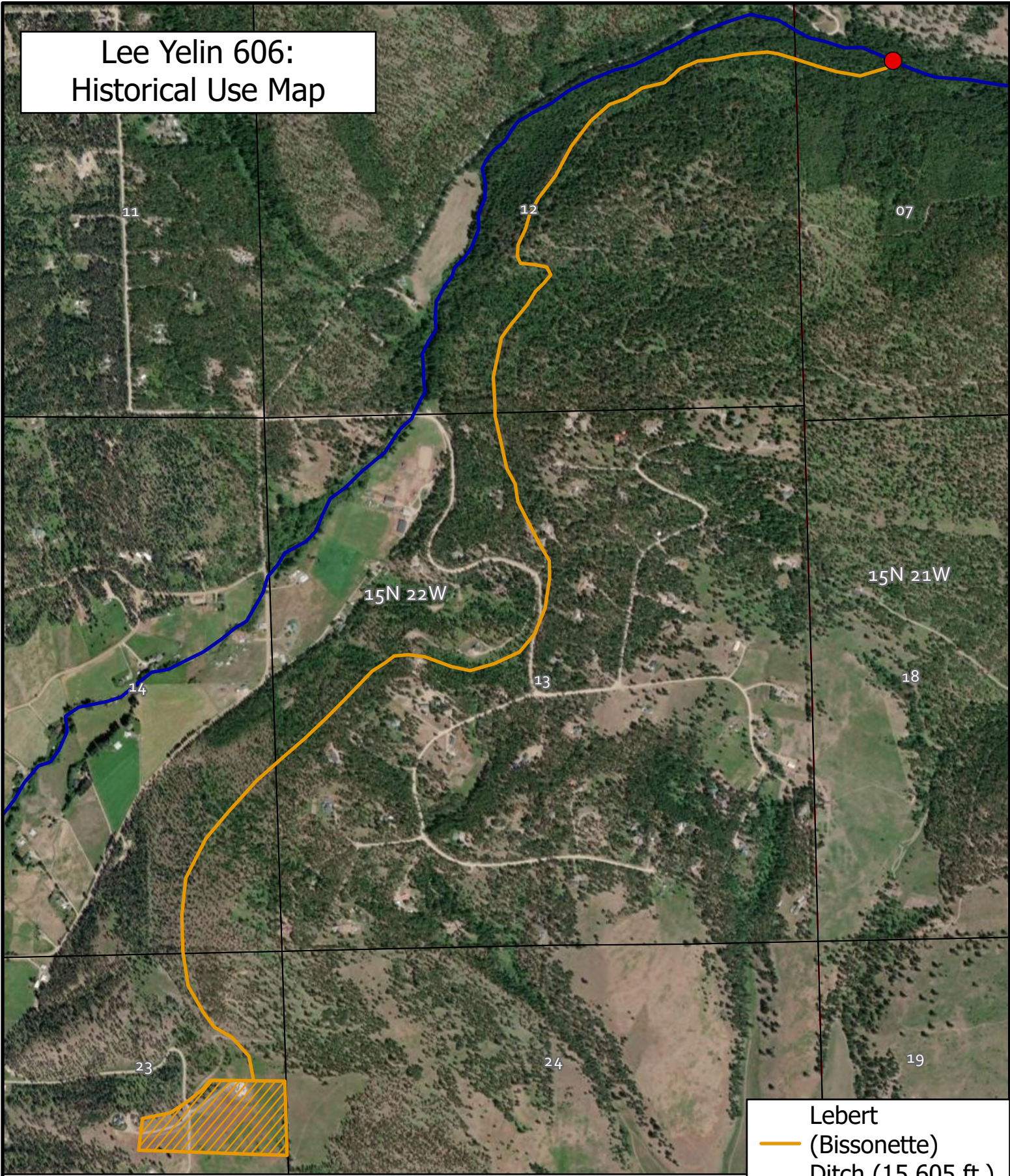
Lee Yelin 606: Project Overview Map



- Protected Reach of Sixmile Creek
- End of Protected Reach
- Lebert (Bissonette) Ditch (15,605 ft.)
- Six Mile Creek
- Historic POD
- Historical POU (21.10 ac.)



Lee Yelin 606: Historical Use Map



2023 Imagery
Missoula County

- Lebert (Bissonette) Ditch (15,605 ft.)
- Six Mile Creek
- Historic POD
- Historical POU (21.10 ac.)



Missoula Water Resources Regional Office
PO Box 5004
2705 Spurgin Road, Bldg. C
Missoula, MT 59806-5004
(406) 721-4284

January 5, 2026

Lee Yelin
5980 Kerr Dr
Missoula, MT 59803-3028

Subject: Deficiency letter for Change Application No. 76M 30171923

Dear Applicant,

The Department of Natural Resources and Conservation (DNRC or Department) has begun reviewing your application. This letter is to notify you of the deficiencies in your application as required in ARM 36.12.1501(1) and §85-2-302(5)(b), MCA. An Applicant is required to submit substantial and credible information addressing the rules and statutes that are relative to your application. You must provide the information specified below for your application to be considered correct and complete. "Correct and complete" means all of the information provided is substantial and credible and provides all of the information as required by applicable rules and statutes. The application as submitted contains deficiencies in the following section(s):

- ❑ ***Question 10. If you propose to add a point of diversion or place of use on State of Montana Trust Land, submit documentation of consent from DNRC Trust Lands Management Division. If you propose to add a place of use on Trust Land with all***



points of diversion on private land, then, at a minimum, that component of the change authorization will be temporary for the duration of the lease term (85-2-441, MCA).

This question was marked as “S” which denotes that items are required to be submitted to the Department. While the Application documents did not include consent from DNRC Trust Lands Management Division, the preapplication materials did include correspondence between you, the Applicant, and DNRC Deputy Trust Lands Administrator Ryann Weiss. The Department will use the previously submitted correspondence as evidence of consent from the Trust Lands Division. While this question is not technically deficient, we wanted to note the inconsistency between the answer and the lack of submitted documentation with the Application.

- ***Question 17. Submit a historical use map created on an aerial photograph or topographic map that shows the following: section corners, township and range, scale bar, north arrow, all historic points of diversion (POD) labeled with a unique POD ID (“H” followed by a number), all historical places of use (POU), all historical conveyance structures, all historical places of storage, and historical place of use for all overlapping water rights. More than one map may be submitted, if necessary, to clearly convey all required information.***

The historical map provided with the Application depicts the historic POU. However this POU appears to be of the entire POU associated with parent right 76M 116758 00 and not that of the child right proposed for change. Please submit a map showing the historical POU of water right 76M 30048497 proposed for change.

In addition to the historic use map, the project overview map also appears to represent the larger historic POU of parent right 76M 116758 00. The project overview map should only the POU of child right 76M 30048497.

- ***Question 36. Describe your plan of operations, including specific information about how water is delivered within the place of use. This may include, where applicable, the range of flow rates needed for a pivot.***

The answer to this question is inconsistent with the Department’s findings. The prior change authorization (76M 30049150) and the Technical Analyses for this current change proposal found the historical and proposed diverted volume for the water right 76M 30048497 to be 208.15 AF. You describe a diverted volume of 402.2 AF. It is unclear if this figure designates the historical and/or proposed diverted volume.

Next, in the Application, you describe the historically consumed volume to be 52.94 AF. Again, in the prior change authorization and the Technical Analyses for this current change, the Department found the historic consumptive use of right 76H 30048497 to be 19.5 AF.

Please clarify if you intend to use the Department’s findings of diverted and consumed volumes, as listed in the Technical Analyses for this change application. If not, and you propose to deviate from the previously completed Technical Analyses, you’ll need to



submit Technical Analyses Addendum (Form 606-TAA) with the Application. Form 606-TAA would result in the loss of the preapplication meeting benefits (expedited timelines and reduced fees).

- ***Form 606-IFA – Question 5: Provide details about an operation plan, which included the proposed flow rate (GPM or CFS) to be protected up to the proposed volume (AF) and the period when protection is to occur. If there is a “trigger flow” associated with your operation plan, please explain.***

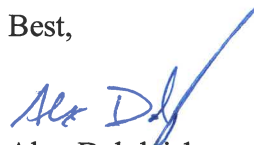
The answer to this question is similar to the answer to Question 36 on the Application where different values are described for the diverted and consumed volumes of the water right proposed for change. Please clarify if you wish to use the diverted and consumed volumes determined in the Department’s Technical Analyses. If you wish to use information different from the findings in the Technical Analyses, submit Form 606-TAA.

As stated above, the information submitted to address the rules and statutes listed in this deficiency letter must be substantial credible information to be acceptable at the correct and complete determination. §§85-2-102 (9) and (26), MCA.

Please submit the information specified above to the Missoula Regional Office by May 6, 2026. This is the only deficiency letter that will be sent. An application not corrected or completed within 120 days from the date of this letter is terminated per ARM 36.12.1501(2) and §85-2-302(6)(a), MCA.

Please let me know if you have any questions.

Best,



Alex Dalglish

Water Resource Specialist

Missoula Regional Office

(406)-542-5886

Alexander.dalglish@mt.gov



IMPORTANT NOTICE: This will be the final opportunity for you to provide the required information to the Department. If all of the requested information in this letter is not postmarked or submitted within 120 days of this letter, the application will be terminated within 30 days and the application fee will not be refunded.



Application Materials

- Application
- Any information submitted with Application including maps

Application Materials



**APPLICATION TO
CHANGE A WATER RIGHT**
§ 85-2-302, MCA
Form No. 606 (Revised 10/2025)

For Department Use Only

RECEIVED

DEC 30 2025

MONTANA D.N.R.C
MISSOULA REGIONAL OFFICE

FILING FEE

\$2500/\$1500 – Without/with filing fee reduction.
\$400 – (The following types do not qualify for a filing fee reduction)
• Replacement well greater than 200 feet from original
• Replacement reservoir on the same source

INFORMATION

An application will be eligible for a filing fee reduction and expedited timelines if the applicant completes a preapplication meeting with the Department (ARM 36.12.1302(1)), which includes submitting any follow-up information identified by the Department (ARM 36.12.1302(3)(c)) and receiving either Department-completed technical analyses or Department review of applicant-submitted technical analyses (ARM 36.12.1302(4) and (5)). An application for the proposed project also must be submitted within 180 days of delivery of Department technical analyses or scientific credibility review and no element on the submitted application can be changed from the completed preapplication meeting form (ARM 36.12.1302(6)). If application is eligible for a filing fee reduction, \$500 paid for Form 606P-B will be credited toward filing fees shown above.

Application # 30171923 Basin 76M
Priority Date 9/30/2025 Time _____ AM/PM
Rec'd By TS
Fee Rec'd \$ 1500⁰² Check # 4746
Deposit Receipt # MSS2612841
Payor Yelin, Lee
Refund \$ _____ Date _____

Applicant Information: Add more as necessary.

Applicant Name Lee Yelin
Mailing Address 5890 Kerr Dr City Missoula State MT Zip 59803-3028
Phone Numbers: Home _____ Work _____ Cell (406)396-3833
Email Address waterrightsinc@gmail.com

Applicant Name _____
Mailing Address _____ City _____ State _____ Zip _____
Phone Numbers: Home _____ Work _____ Cell _____
Email Address _____

Applicant Name _____
Mailing Address _____ City _____ State _____ Zip _____
Phone Numbers: Home _____ Work _____ Cell _____
Email Address _____

Contact/Representative Information: Add more as necessary.

Contact/Representative is: Applicant Consultant Attorney Other
Contact/Representative Name Water Rights Inc.
Mailing Address PO Box 9285 City Missoula State MT Zip 59807
Phone Numbers: Home _____ Work (406)251-6100 Cell _____
Email Address waterrightsinc@gmail.com

NOTE: If a contact person is identified as an attorney, all communication will be sent only to the attorney unless the attorney provides written instruction to the contrary (ARM 36.12.122(2)). If a contact person is identified as a consultant, employee, or lessee, the individual filing the water right form or objection form will receive all correspondence and a copy may be sent to the contact person (ARM 36.12.122(3)).



Answer every question and applicable follow-up questions. Use the checkboxes to denote yes ("Y"), no ("N"), or not applicable ("NA"). Questions that require items to be submitted to the Department have a submitted ("S") checkbox, which is marked when the required item is attached to the Application. Label all submitted items with the question number for which they were submitted. Narrative responses that are larger than the space provided can be answered in an attachment. If an attachment is used, specify "see attachment" on this form, and label the attachment with the question number. Constrain narrative responses to the specific question as is asked on the form; do not respond to multiple questions in one narrative. Responses in the form of a table may be entered into the table provided on this form or in an attachment. If an attachment is used, the table must have the exact headings found on this form, and "see attachment" must be entered as a response to the relevant question. Clearly label all units in tables and narrative responses.

PREAPPLICATION AND TECHNICAL ANALYSES INFORMATION

1. Y N Do you elect for Department technical analyses to be used for criteria assessment?

2. Y N Did you have a preapplication meeting AND complete a Change Preapplication Meeting Form Part A and Part B (Form 606P-A and 606P-B)?

IF QUESTION 2 IS NO, answer 2.a and 2.b:

2.a. S Submit the Technical Analyses Addendum (Form 606-TAA).

2.b. S NA Submit the technical analyses, if you elected in question 1 for Applicant technical analyses to be used for criteria assessment. Select "NA" if you elected for Departmental technical analyses.

IF QUESTION 2 IS YES, answer 2.c, 2.d, and 2.e:

2.c. Y N Has any element of the project described in this application changed from the mandatory elements of the project described in the completed Form 606P? **If yes,**

2.c.i. Please explain.

2.c.ii. S Submit the Technical Analyses Addendum (Form 606-TAA).

2.d. Y N Are the technical analyses to be used for criteria assessment exactly the same as those completed during the preapplication process? **If no:**

2.d.i. Please explain.

2.d.ii. S Submit the Technical Analyses Addendum (Form 606-TAA).

2.e. Y N Did you elect in question 1 for Department technical analyses to be used for criteria assessment? **If no:**

2.e.i. S Submit the technical analyses.



APPLICATION ADDENDA AND REVIEW

- 3. S NA If the proposed change involves one or more places of storage, submit a Change Storage Addendum (Form 606-SA). This does not include reservoirs, pits, pit-dams, or ponds with a capacity less than 0.1 AF; water tanks; or cisterns (ARM 36.12.113(6)).
- 4. S NA If the project involves an appropriation that is greater than 5.5 CFS and 4,000 acre-feet, submit a Reasonable Use Addendum (Form 606-B).
- 5. S NA If the project involves out-of-state water use, submit an Out-of-State Use Addendum (Form 600/606-OSA).
- 6. S NA If the proposed purposes include marketing or selling water, submit a Water Marketing Purpose Addendum (Form 600/606-WMA). This doesn't include marketing for mitigation/aquifer recharge.
- 7. S NA If the proposed purpose includes instream flow, submit a Change to Instream Flow Addendum (Form 606-IFA).
- 8. S NA If the proposed purposes include mitigation, aquifer recharge, or marketing for mitigation/aquifer recharge, submit a Mitigation Purpose Addendum (Form 606/606-MIT).
- 9. S NA If the project is in designated sage grouse habitat, submit a review letter from the Montana Sage Grouse Habitat Conservation Program.
- 10. S NA If you propose to add a point of diversion or place of use on State of Montana Trust Land, submit documentation of consent from DRNC Trust Lands Management Division. If you propose to add a place of use on Trust Land with all points of diversion on private land, then, at a minimum, that component of the change authorization will be temporary for the duration of the lease term (§ 85-2-441, MCA).
- 11. Y NA You must provide a written notice of the application to each owner of an appropriation right sharing a point of diversion or means of conveyance (e.g., canal, ditch, flume, pipeline, or constructed waterway) pursuant to § 85-2-302(4)(c), MCA. Submit a copy of this notice and the recipient list.

APPLICATION DETAILS

12. How many change applications will be needed for this project? Refer to ARM 36.12.1305 for more information. ONE

13. Fill out the table below for the water rights proposed for change.

Water Right No.	Current Authorized Flow Rate			Flow Rate Needed for Project			Means of Diversion
	Flow	GPM	CFS	Flow	GPM	CFS	
76M 30048497	359	<input checked="" type="checkbox"/>	<input type="checkbox"/>	359	<input checked="" type="checkbox"/>	<input type="checkbox"/>	HEADGATE
		<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	
		<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	
		<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	
		<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>	



14. Is the source surface water or groundwater? SURFACE

15. What is the source name? SIX MILE CREEK

16. Identify the water right elements proposed for change, with a checkmark, for each water right proposed for change.

Water Right No.	76M 30048497				
Point of Diversion	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Place of Use	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Purpose of Use	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Place of Storage	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

17. **S** Submit a historical use map created on an aerial photograph or topographic map that shows the following: section corners, township and range, scale bar, north arrow, all historical points of diversion (POD) labeled with a unique POD ID ("H" followed by a number), all historical places of use (POU), all historical conveyance structures, all historical places of storage, and historical place of use for all overlapping water rights. More than one map may be submitted, if necessary, to clearly convey all required information.

18. **S** Submit a proposed use map created on an aerial photograph or topographic map that shows section corners, township and range, scale bar, north arrow, and the following elements: points of diversion labeled with a unique POD ID ("P" followed by a number), places of use, conveyance structures, places of storage, and place of use for all overlapping water rights. Include all elements that will be on the water rights after the proposed change, regardless of whether the element will be modified by the change. The map should fully depict the water rights, as proposed, after the change. More than one map may be submitted, if necessary, to clearly convey all required information.

19. **Y** **N** Does the proposed change involve a change in point of diversion?

IF YES,

19.a. Describe the location for all *new* and *unchanged* points of diversion to the nearest 10 acres. Label POD ID with the same POD ID number assigned for the proposed use map (question 18).

POD ID	¼	¼	¼	Sec.	Twp.	Rge.	County	Lot	Block	Tract	Subdivision	Gov. Lot	New or Unchanged
2	S2	NE		12	15N	22W	MISSOULA						NEW
3	SE	SE	Nw	12	15N	22W	MISSOULA						NEW
4	E2	NE	Sw	12	15N	22W	MISSOULA						NEW
5	Sw	NE	Sw	12	15N	22W	MISSOULA						NEW
6	Nw	SE	Sw	12	15N	22W	MISSOULA						NEW



21. Y N Does the proposed change involve a change in place of use or purpose?

IF YES,

21.a. Y N Do other water rights supplement or overlap the proposed place of use?

IF YES,

21.a.i. How will the water rights be operated to serve the proposed purposes?

21.a.ii. For each supplemental or overlapping water right, please list the average period of diversion and use (MM/DD-MM/DD), flow rate (GPM or CFS), and the volume of water (AF) contributed.

Water Right No.	Avg. Period of Diversion	Avg. Period of Use	Flow Rate			Volume Contributed
	MM/DD-MM/DD	MM/DD-MM/DD	Flow	GPM	CFS	AF
				<input type="checkbox"/>	<input type="checkbox"/>	
				<input type="checkbox"/>	<input type="checkbox"/>	
				<input type="checkbox"/>	<input type="checkbox"/>	
				<input type="checkbox"/>	<input type="checkbox"/>	

22. Y N Are you filing on behalf of another entity? If yes, describe.

23. Y N Do you own the entire historical place of use for all water rights proposed for change?

IF QUESTION 23 IS NO,

23.a. Y N Was the water historically used for sale, rental, distribution, municipal use, or any other context in which water is being supplied to another and it is clear that the ultimate user would not accept the supply without consenting to the use of water on the user's place of use?

IF QUESTION 23.a IS NO,

23.a.i. Y N List the water rights for which you do not own the entire historical place of use.
76M 30048497

23.a.ii. Y N Are the water rights listed in question 23.a.i severed from the historical place of use?

IF QUESTION 23.a.ii IS YES,

23.a.ii.1. Y N Do you own the entirety of the severed water rights proposed for change? If yes, skip to question 24. If no, answer question 23.a.iii.

IF QUESTION 23.a.ii OR 23.a.ii.1 IS NO,

23.a.iii. Y N NA Are all owners of the historical place of use or, if applicable, owners of the severed water rights, willing to sign the application?



IF QUESTION 23.a.iii IS NO,

23.a.iii.1. **S** Submit a Form 641 or 642 to split the water rights being changed for which all owners will not sign.

ADVERSE EFFECT

24. Explain how you can control your diversion in response to a call being made.

N/A INSTREAM FLOW

25. Describe any plans you have for ensuring existing water rights will be satisfied during times of water shortage.

The water stays in the stream, beneficially helping downstream water right holders and instream flow fisheries.

26. **Y** **N** Are you aware of any calls that have been made on the source of supply or, if groundwater, on nearby surface water sources?

26.a. If yes, explain.

27. Describe how the proposed change will or will not affect your ability to make call.

We can still call for water when it is not available at the point of diversion. If any junior rights are in use upstream we can call for water.



28. Y N Does a water commissioner distribute water or oversee water distribution on your proposed source, or if groundwater, on nearby surface water sources?

28.a. If yes, list the sources.

29. When was the last time each water right proposed for change was appropriated and used beneficially?
August 24, 2011 until expiration.

IF THERE HAS BEEN A PERIOD OF NONUSE,

29.a. Why was the water right not used?

Instream use expired and is now being refiled for another 10 years.

29.b. Why will a resumption of use not adversely affect other water users?

There will be no change. When the instream change expired, the water was not used to irrigate. For approximately two years while re-working on new change. We were unaware of the expiration and are working to renew this change.

29.c. Y N Is the period of nonuse greater than 10 years for any of the water rights proposed for change? If yes, list which water rights.

29.d. Y N Have new water rights been authorized to use the source during the period of nonuse for any of the water rights proposed for change? If yes, explain.

30. Y N Do you propose to add one or more points of diversion or use new or existing conveyance infrastructure that will be shared with one or more existing water rights?

30.a. If yes, describe how the capacity of the shared points of diversion and/or conveyance infrastructure is sufficient for all water rights and how the proposed project will not adversely affect these water rights.

31. NA Answer questions 31.a to 31.b for point of diversion changes. If you do not propose a point of diversion change, mark "NA" instead.

31.a. Are the proposed points of diversion upstream or downstream of the historical points of diversion?
N/A INSTREAM FLOW

31.b. Y N Are there intervening water users between the historical and proposed points of diversion?

31.b.i. If yes, list the water rights.

ADEQUATE MEANS OF DIVERSION AND OPERATION

32. S Submit a diagram of how you will operate your system from all proposed points of diversion to all proposed places of use.



33. Describe specific information about the capacity of all proposed diversionary structures. This may include, where applicable: pump curves and total dynamic head calculations, headgate design specifications, and dike or dam height and length.

N/A In Stream Flow

34. Describe the size, materials, capacity, and configuration of infrastructure to convey water from all proposed points of diversion to all proposed places of use.

N/A In Stream Flow

35. Y N Does the proposed conveyance require easements?

35.a. If yes, explain.



36. Describe your plan of operations, including specific information about how water is delivered within the place of use. This may include, where applicable, the range of flow rates needed for a pivot.

The proposed change will leave water instream, rather than the historic operation, which has been to divert and use this water for irrigation. The diverted volume of 402.2 AC-FT in this claim is calculated by multiplying 538.56 gpm x 1440 x 169 ÷ 325,851 = 402.2 AC-FT. We request that the 1.15-mile reach downstream of the POD, ending at the state land boundary, which is a section of road that passes over the culvert, is the protected stretch receiving the historically consumed volume of 52.94 AC-FT (31.7 acres X 1.67 ft/acre) be allowed to stay in-stream for fisheries enhancement.

37. Y N NA If you propose to add one or more points of diversion, do you own the land where all proposed points of diversion are located? If you do not propose to add one or more points of diversion, mark "NA" instead.

37.a. S If no, submit documentation to show you have the right to use all points of diversion located on each property you do not own. This may include, but is not limited to, a well agreement, an easement, or permission of the party that owns the property where the proposed point(s) of diversion are located.

38. Y N Will your system be designed to discharge water from the project?

38.a. If yes, explain the wastewater disposal method.

38.b. Y N NA Have the necessary permits been obtained to comply with §§ 75-5-410 and/or 85-2-364, MCA?

39. Y N Is the means of diversion for any proposed point of diversion a well?

IF YES,

39.a. Y N Have all wells been drilled?

39.b. For all wells that have been drilled, what is the name of the well driller and, if available, what is their license number?

39.c. Y N NA For all wells yet to be drilled, will a licensed well driller construct the wells? If no wells are yet to be drilled, mark "NA" instead.

39.d. S NA Submit any well logs not yet submitted to the Department, such as for wells drilled after submittal of Form 606P. If all well logs have been submitted to the Department, mark "NA."



POSSESSORY INTEREST

43. Y N Do you meet one of the exceptions to possessory interest requirements, pursuant to ARM 36.12.1802 and § 85-2-402(2)(d), MCA? Exceptions include cases 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, and applications for the purposes of instream flow, mitigation, and marketing for mitigation.

43.a. If yes, explain.

44. Y N NA Do you own all proposed places of use? Mark "NA" if you meet one of the exceptions to the possessory interest requirement.

44.a. S If no, explain and submit documentation that shows you either have possessory interest or written permission of the parties with possessory interest of the proposed place of use.

PROPOSED COMPLETION PERIOD

45. How many years will be needed to complete this project and to submit to the DNRC a Project Completion Notice (Form 618)? 10 years or date of expiration.

46. Describe why this amount of time is needed to complete this project.
It is completed from previous 606 instream flow change application.



AFFIDAVIT & CERTIFICATION

Read carefully before you sign and review with legal counsel if you have any questions. All owners (or trustees) must sign the form. ***If the owner is a business or trust, include the title of the representative(s) signing the form (i.e., president, trustee, managing partner, etc.) and provide documentation that establishes the authority of the representative to sign the application.*

I affirm the information provided for this application is to the best of my knowledge true and correct. If a preapplication meeting form was submitted, I am aware that my application for this project will not qualify for a discounted filing fee and expedited timelines if upon submittal of the application to the Department, I changed any element of the proposed application from the preapplication meeting form and follow-up materials (ARM 36.12.1302(6)(a)).

I affirm I 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, unless this application meets an exception to the possessory interest requirements in ARM 36.12.1802(1)(b).

I understand that making a false statement under oath or affirmation in this application and official proceedings throughout the examination of my application may subject me to prosecution under § 45-7-202, MCA, a misdemeanor punishable by a jail term not to exceed 6 months or a fine not to exceed \$500, or both. I have read this Affidavit and understand the terms and conditions.

I declare under penalty of perjury and under the laws of the state of Montana that the foregoing is true and correct.

Printed Name Lee Yelin

Applicant Signature [Signature] Date: 12-23-25

Printed Name _____

Applicant Signature _____ Date: _____

Printed Name _____

Applicant Signature _____ Date: _____





APPLICATION TO CHANGE A WATER RIGHT
CHANGE TO INSTREAM FLOW ADDENDUM

§§ 85-2-402, 85-2-436, MCA

It is highly recommended that Technical Analyses are complete before filling out this addendum. The operation plan must define the flow rate(s) and volume(s) protected instream over specific time intervals. The maximum quantity of water that can be changed to instream flow protected at the historical point of diversion, or the point where return flow historically accrued, is the amount historically diverted. However, only the amount historically consumed from the source, or a smaller amount if specified by the department, may be used to protect, maintain, or enhance streamflow below the historical point of diversion or the point where return flows historically accrued. The protected flow rate may be no higher than the historical flow rate at the historical point of diversion. The flow rate protected downstream of the historical point of diversion, when protected over the time interval defined for protection, cannot result in a volume that is higher than the protectable volume. The measurement plan should include one or more measurement points, sufficient to show beneficial use and lack of adverse effect. Ideally, measurement points are located as close as possible to the start and end of the protected reach.

Answer every question and applicable follow-up questions. Use the checkboxes to denote yes ("Y") or no ("N"). Questions that require items to be submitted to the Department have a submitted ("S") checkbox, which is marked when the required item is attached to the Technical Analyses Addendum. Label all submitted items with the question number for which they were submitted. Narrative responses that are larger than the space provided can be answered in an attachment. If an attachment is used, mark the "see attachment" on this form and label the attachment with the question number. Constrain narrative responses to the specific question as is asked on the form; do not respond to multiple questions in one narrative. Label all units in narrative responses.

1. S Submit a map labeling all historical points of diversion, the protected reach, the locations where historical return flows accrued, and all water rights diverted from the source between the upstream-most historical point of diversion and the end of the protected reach.

2. Y N NA Do all historical return flows go back to the source of supply?

If no,

2.1. What is the name of the other sources where historical return flows accrued?

2.2. What are the monthly volumes of return flows that do not return to the source of supply?

2.3. Y N Are any water rights diverted from the sources identified in question 2.1 within the Area of Potential Adverse Effect identified in the Extended Return Flow Analysis: Evaluation of Impacts to Identified Water Rights? If yes, add these water rights to the map submitted for question 1.



3. Explain how this change will not adversely affect the water rights identified on the map submitted for question 1, which include, if applicable, all water rights 1) diverted from the source between the upstream-most historical point of diversion and the end of the protected reach and 2) diverted from other sources where historical return flows accrued that are located within the Area of Potential Adverse Effect identified in the Extended Return Flow Analysis: Evaluation of Impacts to Identified Water Rights.

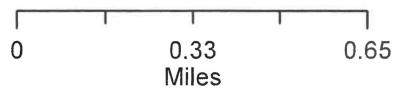
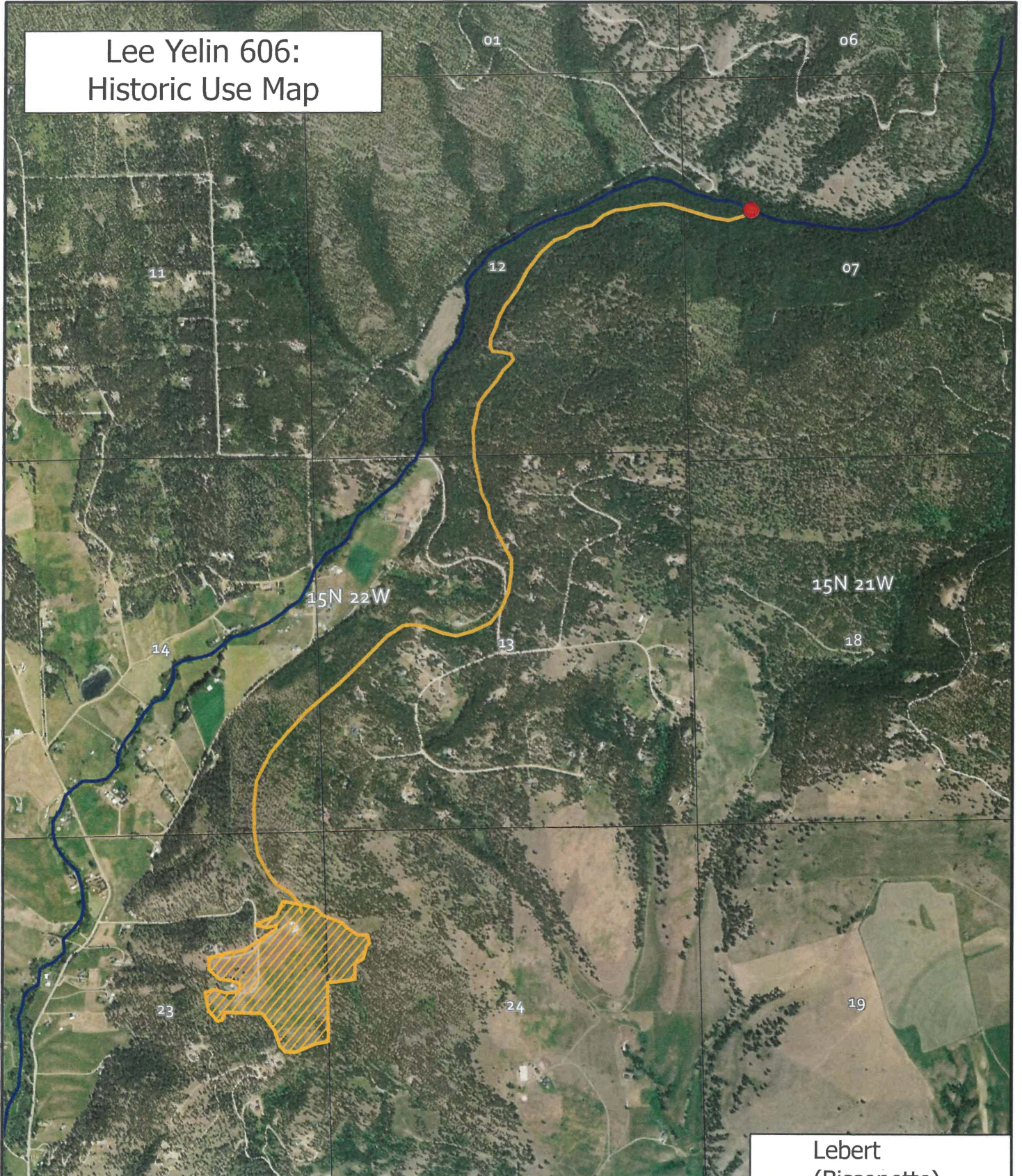
There are no other users accessing the historic POD due to no water being diverted. The 1.15 miles of stream will be protected as the POU for instream flows from the POD to the State of Montana POD. Water users in the drainage will be not be adversely affected because leaving water instream will allow for more carriage water to all downstream users, whether junior or senior. Changing to non-consumptive use will benefit all users in the drainage, especially the aquatic species. The 1.15 mile portion of stream is a continuation of the flows coming from 4 miles up at the headwaters, through federal lands, then through state lands. It is an ideal area for fisheries because it is state leased ground that cannot be subdivided. After the State of Montana POD (the end of the protected stretch) there are an abundant series of diversions all the way to the Clark Fork River. So, the 1.15 mile stretch was selected for optimal pool and riffle ratios for spawning and juvenile habitat accommodations that serve to extend the viable habitats of the communities further upstream, i.e., trout populations, in Sixmile Creek.

4. Provide a detailed measurement plan, which includes the point(s) where measurements occur, the interval of measurement, the methods and equipment used, and explain how this plan is sufficient to evaluate for adverse effect and show beneficial use.

The measurement method being employed is at the two (2) staff gauges locations (at the headgate, SWSENW of Section 7, T15N R21W, and the state land boundary, S2NE and E2SW of Section 12, T15N R22W. The staff gauges will be measured using a Marsh McBirney flow meter and after that has been completed, the gauges can be visually read and the flow rate known without the use of a current meter. Rating charts will be supplied to DNRC upon completion. Staff gauge readings will occur quarterly to verify compliance and more often during extreme low flow periods, if necessary.

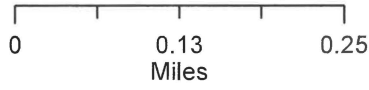
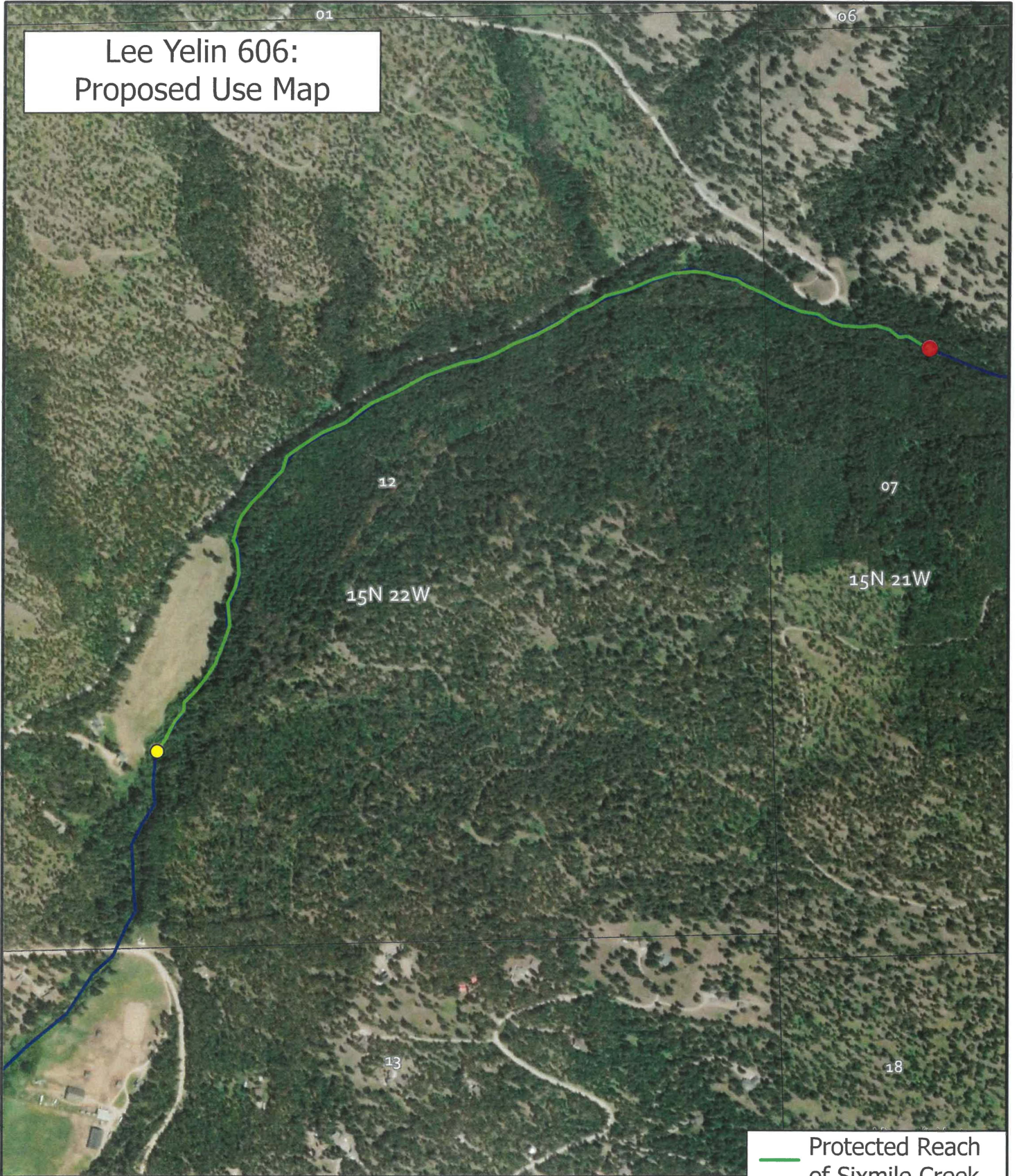


Lee Yelin 606: Historic Use Map



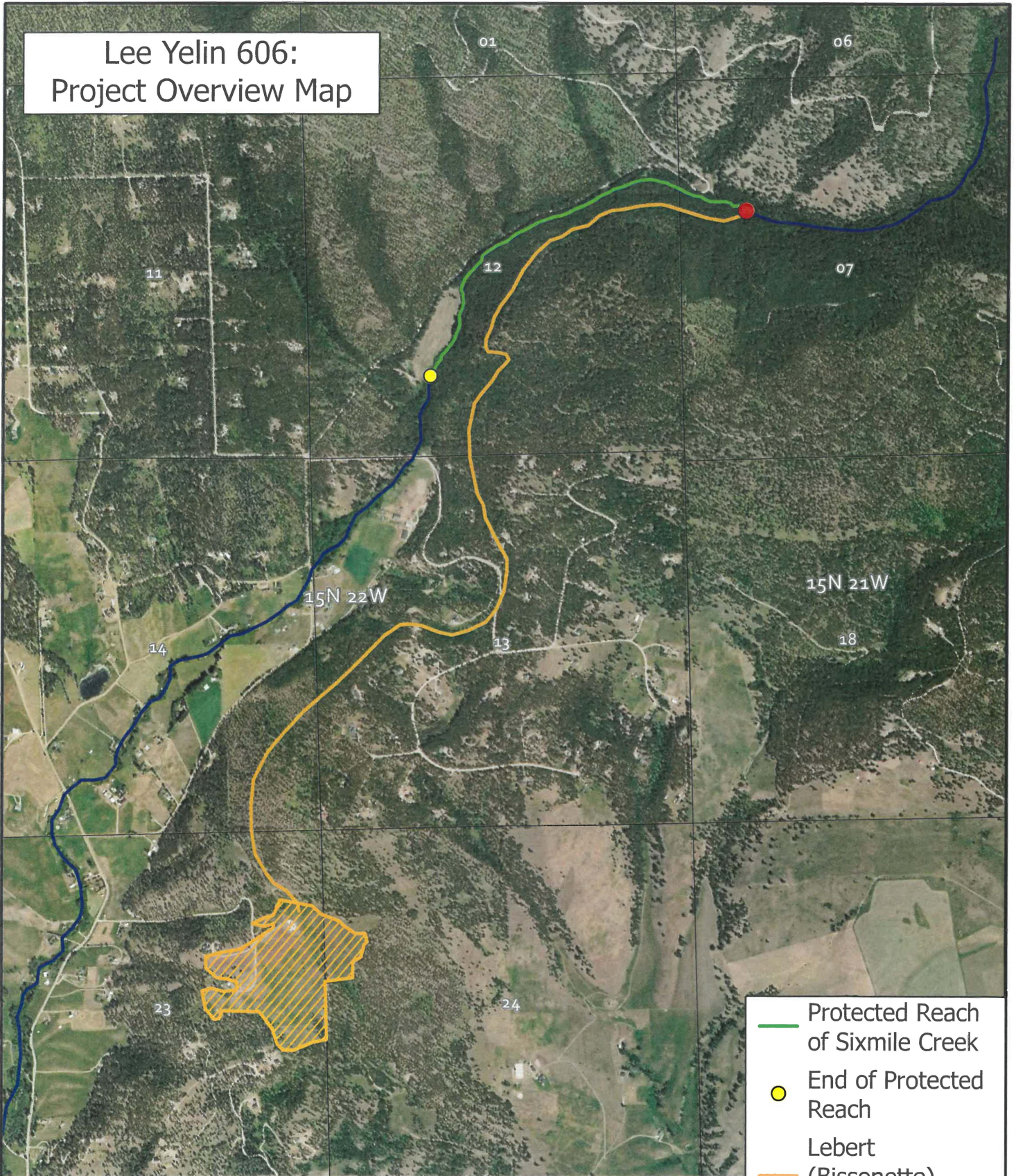
- Lebert (Bissonette) Ditch (15,605 ft.)
- Six Mile Creek
- Historic POD
- Historic POU

Lee Yelin 606:
Proposed Use Map

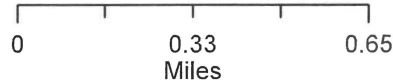


- Protected Reach of Sixmile Creek
- End of Protected Reach
- Six Mile Creek
- Historic POD

Lee Yelin 606: Project Overview Map



- Protected Reach of Sixmile Creek
- End of Protected Reach
- Lebert (Bissonette) Ditch (15,605 ft.)
- Six Mile Creek
- Historic POD
- Historic POU



Preapplication Materials

- **Preapplication Meeting Request**
- **Preapplication Meeting Form**
- **All attachments**
- **All correspondence prior to application receipt**

Preapplication Materials



Missoula Water Resources Regional Office
PO Box 5004
2705 Spurgin Road, Bldg. C
Missoula, MT 59806-5004
(406) 721-4284

October 21, 2025

Lee Yelin
5890 Kerr Dr.
Missoula, MT 59803-3028

Subject: Complete Preapplication Form for Change Application No. 76M 30171923

Dear Applicant,

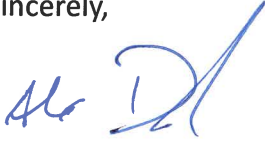
The Missoula Regional Office of the Department of Natural Resources and Conservation (DNRC or Department) received your Preapplication Meeting Form and preapplication meeting fee on October 15, 2025 and the Department deemed the submitted Preapplication Meeting Form to be successfully completed per ARM 36.12.1302 on October 21, 2025.

As designated on the submitted Preapplication Meeting Form per § 85-2-302(3)(b), MCA, the Department will produce the technical analyses based on the parameters included in the Preapplication Meeting Form (ARM 36.12.1302(4)) within 45 days of October 21, 2025.

Please let me know if you have any questions.



Sincerely,



Alex Dagleish

Water Resource Specialist

Missoula Regional Office

(406)-542-5886

Alexander.dagleish@mt.gov





**PREAPPLICATION MEETING
FORM: PART B
CHANGE**
§ 85-2-302(3)(b), MCA
Form No. 606P-B (Revised 02/2025)

For Department Use Only

Application # 30171923 Basin 76M
 Form Received 10/15/2025
 Fee Rec'd \$ 500.00 Check # 28914
 Deposit Receipt # MSS2606652
 Payor Water Rights Inc
 Form Returned _____
 Refund \$ _____ Date _____

PREAPPLICATION MEETING FEE

\$ 500

FILING FEE REDUCTION & EXPEDITED TIMELINE

An application will be eligible for a filing fee reduction and expedited timelines if the Applicant completes a preapplication meeting with the Department (ARM 36.12.1302(1)), which includes submitting any follow-up information identified by the Department (ARM 36.12.1302(3)(c)) and receiving either Department-completed technical analyses or Department review of Applicant-submitted technical analyses (ARM 36.12.1302(4) and (5)). An application for the proposed project also must be submitted within 180 days of delivery of Department technical analyses or scientific credibility review and no element on the submitted application can be changed from the completed preapplication meeting form (ARM 36.12.1302(6)).

RECEIVED

OCT 15 2025

MONTANA D.N.R.C
MISSOULA REGIONAL OFFICE

The Applicant is responsible for providing a "Follow-up Responses" document for all follow-up identified in Preapplication Meeting Form Part A (Form 606P-A). The Applicant may not alter Form 606P-A. If a response has changed to a question answered at the preapplication meeting, the Applicant can provide a new response in a separate document entitled "Amended Responses" with the question number labeled.

The following guidelines are applicable to both the "Follow-up Responses" and "Amended Responses" documents. Clearly label all question numbers. Answer questions in the same format as Form 606P-A. For responses in the form of checkboxes, write "Y", "N", or "S". Constrain narrative responses to the specific question as is asked on the form; do not respond to multiple questions in one narrative. Label units in narrative responses and tables. Tables must have the exact headings found on the form. Questions that require items to be submitted to the Department may be marked "S" when the required item is included with the document.

1. Y N Are you submitting this form in response to a determination by the Department that a previously submitted Form 606P-B was inadequately completed?

If yes,

- a. Date form was returned ("Form Returned" date found in "For Department Use Only" box on the previously submitted Form 606P-B): _____
- b. If a "Follow-up Responses" or "Amended Responses" document is required by questions 2 or 3, submit complete updated documents with responses that stand-alone. The Department will only use the most recently submitted "Follow-up Responses" and "Amended Responses" documents for departmental technical analyses or scientific credibility review; the Department will not use multiple versions of a document.

2. Y N Were any questions identified as requiring follow-up on Form 606P-A?

If yes,

- a. S Submit "Follow-up Responses" document for all questions requiring follow-up.



FOLLOW-UP AND AMENDED RESPONSES AFFIDAVIT & CERTIFICATION

"I attest that this preapplication meeting form (Form 606P-A and Form 606P-B), follow-up, and amended responses accurately portray the proposed project. I am aware that my application for this project will not qualify for a discounted filing fee and expedited timelines if, upon submittal of the application to the department, I change any element of the proposed application from the preapplication meeting form, amended responses, or follow-up materials (ARM 36.12.1302(6)(a))."

[Handwritten Signature]

10/10/25

Applicant Signature

Date

Applicant Signature

Date

"We confirm that the preapplication form (Form 606P-A and Form 606P-B), amended responses, and follow-up information are adequate for the Department to proceed with technical analyses in ARM 36.12.1303. Or, if the Applicant has elected to complete technical analyses, we confirm they have submitted each required element of technical analysis based on the proposed project and the Department is able to proceed with the scientific credibility review (ARM 36.12.1303(8))."

[Handwritten Signature]

10/21/2025

Department Signature

Date

Department Signature

Date



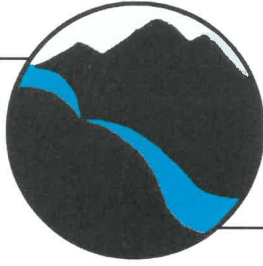
WATER

Bus: (406) 251-6100

Fax: (406) 251-3191

E-mail: waterrightsinc@gmail.com

Web Site: waterrightsinc.net



RIGHTS, INC.

P.O. Box 9285 • Missoula, Montana 59807

October 10, 2025

DNRC Water Resources – Missoula

Attn: Jim Nave

2705 Spurgin Road, Building C

PO Box 5004

Missoula, Montana 59806-5004

RE: Lee Yelin 606-B Follow Up Responses: WR 76M 30048497

20.a.i.: Documentation of consent from the DNRC Trust Lands Management Division will be required at application submittal.

See attached.

61: How many acres, if any, will be retired from the historical place of use?

According to a Master's report in fellow child right (76M 30048498) claim files, the place of use to be retired for in-stream flow associated with claim 76M 30048497 is 21.10 acres. Attached is the Master's report with the evidence to support this acreage.

153.b.i.ii.*: Send in flow measurements to the Department, collected by Water Rights Inc.

No longer required, but see attached.

Please don't hesitate to contact us if you have any questions or need clarification on any discussion within in this response.

Sincerely,



Lee Yelin

Senior Water Resource Specialist

LY/jh

Attachments:

- Email Response from DNRC Trust Lands Management Division
- Master's Report from WR 76M 30048498 Claim File
- Flow Measurements from Six Mile Creek from 2012-2017

WATER



RIGHTS, INC.



Water Rights Inc. <waterrightsinc@gmail.com>

Consent for In-Stream Flow

3 messages

Lee Yelin <waterrightsinc@gmail.com>
To: landboard@mt.gov, ryanweiss@mt.gov
Cc: Jim Nave <jnave@mt.gov>

Fri, Oct 3, 2025 at 11:18 AM

Ryan; I believe this is for you but if not please forward to whoever is responsible for this.

We are working with the water rights division to complete a 606 change application to change water right claim 76M 30048497 to in-stream flow. This change (change no. 3017923) has a place of use on state lands, within Sixmile Creek. The term (10 years) expired and we are filing for another 10 years. Attached is a map showing the legal range of the proposed protected reach. On the 606-A form, question 20.a.i. requires written consent from the DNRC Trust Lands Management Division by the time we submit the follow up. Also enclosed is the previous change authorization so you can see nothing has changed since the previous approval. Please let us know if this is acceptable so we can proceed. Thank you!

Sincerely,

--

Lee Yelin
Senior Water Resource Specialist
Water Rights, Inc.
Missoula, MT
(406) 251-6100 (Office)
(406) 396-3833 (Cell)

2 attachments

 **Change76M30049150.pdf**
913K

 **ProposedUse.pdf**
1186K

Weiss, Ryan <ryanweiss@mt.gov>
To: Lee Yelin <waterrightsinc@gmail.com>, DNRC Land Board <landboard@mt.gov>
Cc: "Nave, Jim" <jnave@mt.gov>

Fri, Oct 3, 2025 at 12:05 PM

Lee,

This email is to confirm receipt of your request. I'll review the materials and get back to you no later than early next week.

Best Regards,

Ryan

[Quoted text hidden]

10/9/25, 2:19 PM

Gmail - Consent for In-Stream Flow

Thu, Oct 9, 2025 at 1:20 PM

Weiss, Ryan <ryanweiss@mt.gov>

To: Lee Yelin <waterrightsinc@gmail.com>, DNRC Land Board <landboard@mt.gov>

Cc: "Nave, Jim" <jnave@mt.gov>

Lee,

Thank you for the inquiry. A lease with state trust lands is not required to temporarily convert the purpose, place of use and point of diversion of your historical irrigation water right to instream flow in Six mile Creek as it flows through state trust lands in T 15N R 22W S12. Trust lands raises no concern with your change application.

Best Regards,

Ryan

[Quoted text hidden]



FILE



STATEMENT OF CLAIM



76M



30048498

Current File Location: RECORDS UNIT

Box Bar Code _____

File Bar Code _____

Date/Initials _____

Montana Water Court
PO Box 1389
Bozeman, MT 59771-1389
(406) 586-4364
1-800-624-3270 (In-state only)
Fax: (406) 522-4131

30048498

FILED

MAY 27 2011

Montana Water Court

IN THE WATER COURT OF THE STATE OF MONTANA
CLARK FORK DIVISION - CLARK FORK RIVER BETWEEN THE
BLACKFOOT RIVER AND FLATHEAD RIVER BASIN (76M)

CLAIMANT: John and Brenda K. Dudik;
Ralph E. Sievers and Charlotte J. Sievers;
Lee Yelin;
Six Mile Water Rights Purchasing Association

76M 116758-00
76M 30048497
76M 30048498
76M 30048499

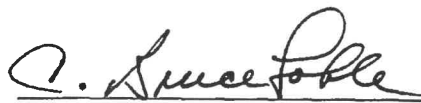
ON MOTION OF WATER COURT

ORDER ADOPTING MASTER'S REPORT

Pursuant to Montana Code Annotated, § 85-2-233(5), the above entitled case was assigned to Water Master Peter Fritsch. The Water Master filed a report containing Findings of Fact and Conclusions of Law with the Clerk of Court. Copies of the report were served upon the parties on May 5, 2011. Over ten (10) days have elapsed since service, and no objections to the Findings and Conclusions have been filed by any party.

The Court has reviewed the Water Master's Findings, Conclusions, and Recommendations, and each Post Decree Abstract of Water Right Claim served with the report. Pursuant to Rule 53(e), Montana Rules of Civil Procedure, the Court **ADOPTS** the Master's Report and its Recommendations, and **APPROVES** the changes to the centralized computer record system that are reflected on each abstract served with the report.

DATED this 27 day of MAY, 2011.


C. Bruce Loble
Chief Water Judge

CERTIFICATE OF SERVICE

I, Patricia J. Gunderson, Deputy Clerk of Court of the Montana Water Court, hereby certify that a true and correct copy of the above **ORDER ADOPTING MASTER'S REPORT** was duly served upon the persons listed below by depositing the same, postage prepaid, in the United States mail.

John & Brenda Dudik
PO Box 460123
Huson, MT 59846

Lee Yelin
5890 Kerr Drive
Missoula, MT 59846

Ralph and Charlotte J. Sievers
PO Box 697
Anaconda, MT 59711

Six Mile Water Rights Purchaser's Association
% Paul Long Jr.
24765 Brookview Drive
Huson, MT 59846

DATED this *27* day of *May*, 2011.


Patricia J. Gunderson
Deputy Clerk of Court

Montana Water Court
PO Box 1389
Bozeman, MT 59771-1389
(406) 586-4364
1-800-624-3270 (In-state only)
Fax: (406) 522-4131

FILED

MAY 05 2011

Montana Water Court

IN THE WATER COURT OF THE STATE OF MONTANA
CLARK FORK DIVISION - CLARK FORK RIVER BETWEEN THE
BLACKFOOT RIVER AND FLATHEAD RIVER BASIN (76M)

CLAIMANT: John and Brenda K. Dudik;
Ralph E. Sievers and Charlotte J. Sievers;
Lee Yelin;
Six Mile Water Rights Purchasing Association

76M 116758-00
76M 30048497
76M 30048498 ✓
76M 30048499

ON MOTION OF WATER COURT

NOTICE OF FILING OF MASTER'S REPORT

This Master's Report was filed with the Clerk of the Montana Water Court on the above stamped date. Please carefully review this Report.

If you disagree with the Master's Findings of Fact, Conclusions of Law, or Recommendations; or if there are errors in the Report, you may file a written objection to the Report within 10 days from the above stamped date. (Rule 23, Water Right Adjudication Rules.) If you file an objection, you must also mail a copy of the objection to all the other parties on the Service List found at the end of the Master's Report. The original objection and a certificate of mailing to the parties on the Service List must be filed with the Water Court. If you do not file a timely objection, the Water Court will conclude that you agree with the content of this Master's Report.

MASTER'S REPORT

On February 3, 2011, Amy Groen, Department of Natural Resources and Conservation Compliance Technician for the Missoula Water Resources Regional Office, filed a memorandum detailing documents filed by co-claimants of water right claim 76M 116758-00 pertaining to a request to split the claim into four claims, the original "parent" claim and three "child" claims.

This split request was missing some information regarding the acreage to be removed from claim 76M 116758-00 and resulted in a very high quantified volume remaining on the claim. The Master scheduled a telephonic conference to discuss the issues.

Prior to the conference, claimants John Dudik and Lee Yelin submitted information to the Court that resolved the volume issue for all claims and the acreage issue for the Dudik claim.

The Master was able to discern the appropriate acreage split for the rest of the claims through the following analysis. The original Six Mile Creek Water Purchasers' Association (SMCWPA) 641 form provided complete acreage information for their claim. The Master was able to discern that a proportional acreage split was instituted for both the SMCWPA and Dudik claims, so the Master assumed a proportional split was appropriate for the Yelin claim as well, which provided an acreage figure, but no legal description. The SMCWPA 641 split form also provided complete acreage details for the Siever's after removing the acreage for the Yelin and SMCWPA splits, but not the Dudiks. Using this information, the Master was able to ascertain the legal description for Yelin's split acreage.

The Master's analysis was augmented by a DNRC filing that confirmed the proposed acreage split with a color-coded map submitted for Change Authorization filings already filed at the Missoula Regional Office. The Findings of Fact below set out the agreed upon parameters of the ownership split. If the Master's acreage analysis is

incorrect, the affected claimants should file an objection to this Report.

FINDINGS OF FACT

1. Based on the DNRC Memorandum and the Claimants' submissions, three new water right claim numbers should be created. Those numbers are 76M 30048497, belonging to Lee Yelin's portion of the original claim, 76M 30048498, belonging to John and Brenda Dudik's portion of the original claim, and 76M 30048499, belonging to the Six Mile Water Rights Purchaser's Association's portion of the original claim. Ralph and Charlotte Sievers shall retain ownership of the original claim number 76M 116758-00.

2. After the split, the following corrections should be made to claim 76M 116758-00:

OWNERS: RALPH & CHARLOTTE SIEVERS (Sole Owners)

FLOW RATE: 1.25 CFS

VOLUME: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

MAXIMUM ACRES: 33.08

PLACE OF USE:

<u>ID</u>	<u>ACRES</u>	<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
1	5.18	S2NENE	23	15N	22W	MISSOULA
2	0.40	S2NE	23	15N	22W	MISSOULA
3	12.50	E2SWNE	23	15N	22W	MISSOULA
4	15.00	N2NESE	23	15N	22W	MISSOULA
Total:	33.08					

3. The place of use taken out of irrigation under claim 76M 116758-00 in lieu of the transfer of water to Lee Yelin, creating claim 76M 30048497, is:

<u>ID</u>	<u>ACRES</u>	<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
1	21.10	S2NE	23	15N	22W	MISSOULA

4. The place of use taken out of irrigation under claim 76M 116758-00 in lieu

of the transfer of water to John and Brenda Dudik, creating claim 76M 30048498, is:

<u>ID</u>	<u>ACRES</u>	<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
2	1.32	S2NENE	23	15N	22W	MISSOULA

5. The place of use taken out of irrigation under claim 76M 116758-00 in lieu of the transfer of water to Six Mile Creek Water Purchasers' Association, creating claim 76M 30048499, is:

<u>ID</u>	<u>ACRES</u>	<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
1	18.50	S2NE	23	15N	22W	MISSOULA

6. On May 12, 1986, a Stipulation was filed with the Court resolving the objections to claim 76M 116758-00 in case 76M-78. On February 18, 1992, the Court issued a Master's Report ratifying the Stipulation, correcting the place of use as well, even though it did not specifically appear on the objection list. The correction in the Report resulted in a decrease mirroring the Stipulation submitted in the case. An issue remark was added to the claim to notice this correction for the next decree. The issue remark should be removed.

7. On November 22, 2010, Phyllis Ballard withdrew her late objection to the priority date of claim 76M 116758-00 originally filed on October 9, 1987. Because several other water users also filed the same objection to priority date, the issue remark on the claim should be corrected to read:

LATE OBJECTIONS WERE FILED BY ELEVEN OTHER SIX MILE CREEK
WATER RIGHT OWNERS ALLEGING THAT THE PRIORITY DATE
SHOULD BE CHANGED.

This same issue remark should be added to claims 76M 30048497, 76M 30048498, and 76M 30048499.

7. The elements of claim 76M 30048497, after the split, are:

OWNER: LEE YELIN

PRIORITY DATE: OCTOBER 9, 1880

FLOW RATE: 359.04 GPM
 VOLUME: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

SOURCE: SURFACE WATER

PURPOSE (USE): IRRIGATION - FLOOD

PERIOD OF USE: APRIL 1 TO OCTOBER 31

POINT OF DIVERSION:

	<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
001	SWSEW	7	15N	22W	MISSOULA

MEANS OF DIVERSION: HEADGATE

PLACE OF USE:

<u>ACRES</u>	<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
--------------	---------------	------------	------------	------------	---------------

8. The elements of claim 76M 30048498, after the split, are:

OWNER: JOHN & BRENDA DUDIK

PRIORITY DATE: OCTOBER 9, 1880

FLOW RATE: 22.44 GPM

VOLUME: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

SOURCE: SURFACE WATER

PURPOSE (USE): IRRIGATION - FLOOD

PERIOD OF USE: APRIL 1 TO OCTOBER 31

POINT OF DIVERSION:

	<u>QTRSEC</u>	<u>SEC</u>	<u>TWP</u>	<u>RGE</u>	<u>COUNTY</u>
001	SWSEW	7	15N	22W	MISSOULA

MEANS OF DIVERSION: HEADGATE

PLACE OF USE:

ACRES QTRSEC SEC TWP RGE COUNTY

9. The elements of claim 76M 30048499, after the split, are:

OWNER: SIX MILE WATER RIGHTS PURCHASERS' ASSOCIATION

PRIORITY DATE: OCTOBER 9, 1880

FLOW RATE: 314.16 GPM

VOLUME: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

SOURCE: SURFACE WATER

PURPOSE (USE): IRRIGATION - FLOOD

PERIOD OF USE: APRIL 1 TO OCTOBER 31

POINT OF DIVERSION:

QTRSEC SEC TWP RGE COUNTY
001 SWSNW 7 15N 22W MISSOULA

MEANS OF DIVERSION: HEADGATE

PLACE OF USE:

ACRES QTRSEC SEC TWP RGE COUNTY

10. The following remark should be added to the abstract of claim 76M

116758-00:

THE SPLIT CLAIMS LISTED FOLLOWING THIS STATEMENT WERE AUTHORIZED AND GENERATED BASED ON INFORMATION IN THIS CLAIM. 76M 30048497, 76M 30048498, AND 76M 30048499.

11. The following remarks should be added to the abstract of claim 76M

30048497:

THIS SPLIT CLAIM WAS AUTHORIZED BY THE WATER COURT BASED ON INFORMATION IN CLAIM NO. 76M 116758-00.

THIS CLAIM WAS NOT INCLUDED IN THE BASIN 76M TEMPORARY PRELIMINARY DECREE ISSUED 11/29/84.

THIS SPLIT PORTION OF WATER RIGHT 76M 116758-00 HAS NO PLACE OF USE. THE CURRENT CLAIMANT DOES NOT OWN ANY OF THE HISTORIC PLACE OF USE FOR CLAIM 76M 116758-00. UNTIL THE MONTANA DNRC APPROVES A CHANGE OF USE FOR THIS CLAIM, IT MAY NOT BE USED BY THE CLAIMANT.

12. The following remarks should be added to the abstract of claim 76M 30048498:

THIS SPLIT CLAIM WAS AUTHORIZED BY THE WATER COURT BASED ON INFORMATION IN CLAIM NO. 76M 116758-00.

THIS CLAIM WAS NOT INCLUDED IN THE BASIN 76M TEMPORARY PRELIMINARY DECREE ISSUED 11/29/84.

THIS SPLIT PORTION OF WATER RIGHT 76M 116758-00 HAS NO PLACE OF USE. THE CURRENT CLAIMANT DOES NOT OWN ANY OF THE HISTORIC PLACE OF USE FOR CLAIM 76M 116758-00. UNTIL THE MONTANA DNRC APPROVES A CHANGE OF USE FOR THIS CLAIM, IT MAY NOT BE USED BY THE CLAIMANT.

13. The following remarks should be added to the abstract of claim 76M 30048499:

THIS SPLIT CLAIM WAS AUTHORIZED BY THE WATER COURT BASED ON INFORMATION IN CLAIM NO. 76M 116758-00.

THIS CLAIM WAS NOT INCLUDED IN THE BASIN 76M TEMPORARY PRELIMINARY DECREE ISSUED 11/29/84.

THIS SPLIT PORTION OF WATER RIGHT 76M 116758-00 HAS NO PLACE OF USE. THE CURRENT CLAIMANT DOES NOT OWN ANY OF THE HISTORIC PLACE OF USE FOR CLAIM 76M 116758-00. UNTIL THE MONTANA DNRC APPROVES A CHANGE OF USE FOR THIS CLAIM, IT MAY NOT BE USED BY THE CLAIMANT.

CONCLUSIONS OF LAW

1. The Montana Water Court has jurisdiction over all matters relating to the determination of existing water rights and may consider any matter within the Court's

jurisdiction on its own motion, or on the motion of an interested party. Section 3-7-224, MCA.

2. Montana law allows claimants to amend their statements of claim, and objectors to amend their timely filed objections after the objection period in a basin has closed. Motions to amend a claim or objection are governed by Section 85-2-233(6), MCA:

(6) After the issuance of a temporary preliminary decree or preliminary decree, notice of any motion to amend a statement of claim or a timely filed objection that may adversely affect other water rights must be published for 3 consecutive weeks in two newspapers of general circulation in the basin where the statement of claim or objection was filed. The notice must specify that any response or objection to the proposed amendment must be filed within 45 days of the date of the last notice. The water judge may order any additional notice of the motion as the water judge considers necessary. The cost of notice required pursuant to this subsection must be borne by the moving party.

3. The splitting of claim 76M 116758-00 does not constitute an increase to any of the claim's elements. The split only serves to reflect, more accurately, the current proportional ownership of the claimed place of use and flow rate. As a result, the notice requirements found in Section 85-2-233(6), MCA do not apply.

4. The quantified volume for claim 76M 116758-00, which was stipulated to in case 76M-78 was exceedingly high. The total volume equated to 9.4 Ac-Ft/Acre, or almost twice the standard volume (5.0 Ac-Ft/Acre) for flood irrigation in Climatic Area 3. (See DNRC Claim Examination Manual Ch.7(C)(3)(c)). Further, every co-owner of the claim has filed DNRC change authorizations, which will provide for more constrictive volume quantifications than the previously stipulated volume. Therefore, correcting the volume for claim 76M 116758-00 to the standard "historic and beneficial use" volume remark from the previously quantified volume is proper and does not require notice per Section 85-2-233(6), MCA.

5. When the Master's Report was written in case 76M-78, it included corrections to the place of use. An objection to place of use for claim 76M 116758-00 was not explicitly noticed in the Basin 76M Decree. However, an objection to irrigated acres was noticed. The Court's policy regarding corrections to elements not noticed in the objection list at the time was to make the correction and then place an issue remark on the claim to notice the correction in the next decree.

Since the passage of Section 85-2-233(6), MCA, the Court's position on notice to the public of post-Decree corrections has evolved substantially. The Court no longer holds to the position that material decreases in quantifiable elements such as flow rate or place of use require notice to the public. Moreover, irrigated acres and place of use are actually one and the same, the place of use element simply providing more detail of what exactly the irrigated acreage is. It is, therefore, not unreasonable to find constructive notice that potential corrections to place of use could occur in resolving a properly noticed objection to irrigated acres. The place of use issue remark should be removed from claim 76M 116758-00 and not added to any of the split child claims in this proceeding.

6. A properly filed Statement of Claim for Existing Water Right is prima facie proof of its content. Section 85-2-227, MCA. This prima facie proof may be contradicted and overcome by other evidence that proves an element of the prima facie proof is incorrect. This is the standard of proof for every assertion that a claim is incorrect including claimants objecting to their own claims. Rule 19 W.R.Adj.R.

7. The evidence entered into the record regarding the current ownership of the claimed flow rate and historically irrigated acreage to be taken out of irrigation is sufficient to justify splitting claim 76M 116758-00 as stated in the Findings of Fact.

RECOMMENDATIONS

Therefore, pursuant to section 85-2-233(6), MCA and Rule 15, M.R.Civ.P., it is recommended that

1. The Motion to Split statement of claim 76M 116758-00 be GRANTED;
3. The changes to this claim, as stated in the Findings of Fact, should be adopted by the Water Court to correct the Temporary Preliminary Decree for this Basin.
4. New **Post Decree Abstracts of Water Right Claim** 76M 30048497, 76M 30048498, and 76M 30048499 be created to reflect the proportional use of the above identified co-owners.
5. **All Updated Post Decree Abstracts of Water Right Claims** be served with this Report to confirm the recommended changes have been made in the state's centralized water right record system.

DATED this 5th day of May, 2011.



Peter Fritsch
Water Master

CERTIFICATE OF SERVICE

I, Patricia J. Gunderson, Deputy Clerk of Court of the Montana Water Court, hereby certify that a true and correct copy of the above **NOTICE OF FILING OF MASTER'S REPORT** and **MASTER'S REPORT** was duly served upon the persons listed below by depositing the same, postage prepaid, in the United States mail.

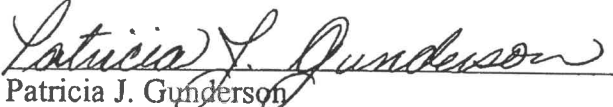
John & Brenda Dudik
PO Box 460123
Huson, MT 59846

Lee Yelin
5890 Kerr Drive
Missoula, MT 59846

Ralph and Charlotte J. Sievers
PO Box 697
Anaconda, MT 59711

Six Mile Water Rights Purchaser's
Association
%Paul Long Jr.
24765 Brookview Drive
Huson, MT 59846

DATED this *5* day of *May*, 2011.


Patricia J. Gunderson
Deputy Clerk of Court

Sixmile Creek Below Siever POD

Flow Measurement for May 14, 2012					
Water Rights, Inc.		Staff Gauge Reading		27	
Station	Distance (ft)	Depth (ft)	Velocity (ft/sec)	Discharge (cfs)	Comments
1		0	0	0	
2	2.5	0.2	0.8	0.08	bank
3	3	0.3	1.26	0.189	
4	3.5	0.35	2.11	0.36925	
5	4	0.425	1.66	0.35275	
6	4.5	0.55	2.43	0.66825	
7	5	0.6	1.48	0.444	
8	5.5	0.6	1.68	0.504	
9	6	0.6	2.01	0.603	
10	6.5	0.65	2.87	0.93275	
11	7	0.7	3.32	1.162	
12	7.5	0.75	2.04	0.765	
13	8	0.85	1.5	0.88	
14	8.5	1	1.54	0.77	
15	9	1.1	1.26	0.693	
16	9.5	1.35	1.13	0.76275	
17	10	1.1	1.22	0.671	
18	10.5	0.5	0.91	0.2275	
19	11	0	0	0	bank
	Total			7.52	

Sixmile Creek at Road Crossing

Flow Measurement for May 14, 2012					
Water Rights, Inc.		Staff Gauge Reading		20.5	
Station	Distance (ft)	Depth (ft)	Velocity (ft/sec)	Discharge (cfs)	Comments
1		0	0	0	
2	2.5	0.575	1.39	0.399625	bank
3	3	0.6	1.72	0.516	
4	3.5	0.5	2.18	0.545	
5	4	0.8	2.54	1.016	
6	4.5	1	2.72	1.36	
7	5	0.9	2.53	1.1365	
8	5.5	1.2	2.57	1.542	
9	6	1.2	2.57	1.542	
10	6.5	1.2	1.09	0.654	
11	7	1.5	1.14	0.855	
12	7.5	1	1.61	0.805	
13	8	0.8	0.79	0.316	
14	8.5	0.6	0.4	0.12	rock
15	9	0.65	0.17	0.05525	
16	9.5	0.35	0.12	0.021	
17	10	0.25	0.1	0.0125	
18	10.5	0.1	0	0	
19	11	0	0	0	bank
	Total			10.897875	

Sixmile Creek Below Siever POD

Flow measurement for July 25, 2011					
Water Rights, Inc.		Staff Gauge Reading:		30.75	
Station	Distance (ft)	Depth (ft)	Velocity (ft/sec)	Discharge (cfs)	Comments
1	3	0	0	0	bank
2	3.5	0.2	0.25	0.025	
3	4	0.225	0.24	0.027	
4	4.5	0.325	0.55	0.089375	
5	5	0.325	1.19	0.193375	
6	5.5	0.35	1.27	0.22225	
7	6	0.4	1.8	0.36	
8	6.5	0.425	1.92	0.408	
9	7	0.5	1.97	0.4925	
10	7.5	0.55	2.22	0.6105	
11	8	0.625	1.96	0.6125	
12	8.5	0.75	1.37	0.51375	
13	9	0.875	1.49	0.651875	
14	9.5	1.05	1.66	0.8715	
15	10	0.4	1.91	0.382	overbank
16	10.5	0.1	0	0	overbank
17	11	0	0	0	bank
Total				5.077625	

Sixmile Creek at Road Crossing

Flow measurement for July 25, 2012					
Water Rights, Inc.		Staff Gauge Reading:		27	
Station	Distance (ft)	Depth (ft)	Velocity (ft/sec)	Discharge (cfs)	Comments
1	2	0	0	0	bank
2	2.5	0.3	0.96	0.144	rock
3	3	0.35	0	0	rock
4	3.5	0.55	2.96	0.814	
5	4	0.6	2.34	0.702	
6	4.5	0.7	1.77	0.6195	rock
7	5	1	2.37	1.185	
8	5.5	1.05	2.24	1.176	
9	6	0.7	1.57	0.5495	rock
10	6.5	0.9	0.74	0.333	
11	7	0.55	0.83	0.22825	
12	7.5	0.5	0.57	0.1425	
13	8	0.4	0.41	0.082	
14	8.5	0.2	0	0	
15	9	0	0	0	bank
Total				5.97575	

Sixmile Creek Below Siever POD

Flow measurement for October 25, 2012					
Water Rights, Inc.		Staff Gauge Reading: 32			
Station	Distance (ft)	Depth (ft)	Velocity (ft/sec)	Discharge (cfs)	Comments
1	3	0	0	0	bank
2	3.5	0.1	0	0	
3	4	0.15	0	0	
4	4.5	0.175	0.48	0.042	
5	5	0.2	0.49	0.049	
6	5.5	0.25	1.63	0.20375	
7	6	0.3	1.7	0.255	
8	6.5	0.3	1.84	0.276	
9	7	0.3	1.76	0.264	
10	7.5	0.45	1.86	0.4185	
11	8	0.5	1.71	0.4275	
12	8.5	0.55	1.55	0.42625	
13	9	0.7	1.12	0.392	
14	9.5	0.85	1.47	0.62475	
15	10	0.35	1.48	0.259	
16	10.5	0	0	0	bank
Total				3.37875	

Sixmile Creek at Road Crossing

Flow measurement for October 25, 2012					
Water Rights, Inc.		Staff Gauge Reading: 28			
Station	Distance (ft)	Depth (ft)	Velocity (ft/sec)	Discharge (cfs)	Comments
1	1.5	0	0	0	bank
2	2	0.25	0.3	0.0375	
3	2.5	0.275	0.33	0.045375	
4	3	0.2	2.44	0.244	
5	3.5	0.375	2.38	0.44625	
6	4	0.8	2.1	0.84	
7	4.5	0.75	2.13	0.79875	
8	5	0.55	1.81	0.49775	
9	5.5	0.5	1.03	0.2575	
10	6	0.35	0.8	0.14	
11	6.5	0.4	0.56	0.112	
12	7	0.2	0.39	0.039	
13	7.5	0.1	0	0	
14	8	0	0	0	bank
Total				3.458125	

Sixmile Creek Below Siever POD

Flow measurement for July 15, 2013					
Water Rights, Inc.		Staff Gauge Reading:		31	
Station	Distance (ft)	Depth (ft)	Velocity (ft/sec)	Discharge (cfs)	Comments
1	3	0	0	0	bank
2	3.5	0.175	0.04	0.0035	
3	4	0.2	0.15	0.015	
4	4.5	0.275	0.41	0.056375	
5	5	0.275	0.66	0.09075	
6	5.5	0.3	1.01	0.1515	
7	6	0.35	1.33	0.23275	
8	6.5	0.4	1.67	0.334	
9	7	0.4	1.73	0.346	
10	7.5	0.5	2.01	0.5025	
11	8	0.525	1.63	0.427875	
12	8.5	0.675	1.21	0.408375	
13	9	0.7	1.01	0.3535	
14	9.5	0.8	1.03	0.412	
15	10	0.7	0.91	0.3185	
16	10.5	0.4	1.03	0.206	
17	11	0.2	0.34	0.034	
18	11.5	0	0	0	
Total				3.892625	

Sixmile Creek at Road Crossing

Flow measurement for July 15, 2013					
Water Rights, Inc.		Staff Gauge Reading:		27.25	
Station	Distance (ft)	Depth (ft)	Velocity (ft/sec)	Discharge (cfs)	Comments
1	2	0.2	0.88	0.088	
2	2.5	0.2	0.71	0.071	
3	3	0.3	1.22	0.183	
4	3.5	0.4	1.89	0.378	
5	4	0.5	1.99	0.4975	
6	4.5	0.7	2.03	0.7105	
7	5	0.75	1.98	0.7425	
8	5.5	0.75	1.31	0.49125	
9	6	0.675	1.05	0.354375	
10	6.5	0.725	0.85	0.308125	
11	7	0.5	0.72	0.18	
12	7.5	0.45	0.61	0.13725	
13	8	0.35	0.22	0.0385	
14	8.5	0.225	0.03	0.003375	
15	9	0	0	0	
Total				4.183375	

Sixmile Creek Below Siever POD

o m asu m n fo J y 9, 2014					
Water Rights, Inc.			Staff Guage Reading:		
Station	Distance (ft)	Depth (ft)	Velocity (ft/sec)	Discharge (cfs)	Comments
1	3	0	0	0	bank
2	3.5	0.1	0	0	
3	4	0.2	0	0	
4	4.5	0.25	1.13	0.14125	
5	5	0.3	1.22	0.183	
6	5.5	0.3	1.71	0.2565	
7	6	0.3	1.73	0.2595	
8	6.5	0.325	1.96	0.3185	
9	7	0.3	1.61	0.2415	rock
10	7.5	0.45	2.02	0.4545	
11	8	0.45	2.58	0.5805	
12	8.5	0.625	1.79	0.559375	
13	9	0.7	1.1	0.385	
14	9.5	0.825	1.47	0.606375	
15	10	0.95	2.1	0.9975	
16	10.5	0.55	1.73	0.47575	
17	11	0.4	1.38	0.276	
18	11.5	0.325	1.15	0.186875	
19	12	0	0	0	
Total				5.922125	

Sixmile Creek at Road Crossing

m asu m n fo Ju y 9, 20 4					
Water Rights, Inc.			Staff Guage Reading: 27		
Station	Distance (ft)	Depth (ft)	Velocity (ft/sec)	Discharge (cfs)	Comments
1	2	0	0	0	
2	2.5	0.45	1.11	0.24975	
3	3	0.3	1.25	0.1875	rock
4	3.5	0.75	1.84	0.69	
5	4	0.65	2.35	0.76375	
6	4.5	0.725	2.66	0.96425	
7	5	0.75	3.37	1.26375	
8	5.5	0.8	2.64	1.056	
9	6	0.65	1.87	0.60775	rock
10	6.5	0.85	1.44	0.612	
11	7	0.6	1.4	0.42	
12	7.5	0.4	1.1	0.22	
13	8	0.3	0.85	0.1275	
14	8.5	0.2	0.5	0.05	
15	9	0.1	0	0	
			Total	7.21225	

Sixmile Creek Below Siever POD

Flow measurement for October 1, 2015					
Water Rights, Inc.			Staff Gauge Reading: 28.5		
Station	Distance (ft)	Depth (ft)	Velocity (ft/sec)	Discharge (cfs)	Comments
1	3	0	0	0	bank
2	3.5	0.1	0.25	0.0125	Flowing
3	4	0.1	0.25	0.0125	Flowing
4	4.5	0.1	0.5	0.025	Flowing
5	5	0.1	0.5	0.025	Flowing
6	5.5	0.1	0.75	0.0375	Flowing
7	6	0.1	0.75	0.0375	Flowing
8	6.5	0.2	1.01	0.101	
9	7	0.3	1.48	0.222	
10	7.5	0.35	1.28	0.224	
11	8	0.5	1.21	0.3025	
12	8.5	0.6	1.47	0.441	
13	9	0.8	1.32	0.528	
14	9.5	0.75	1.66	0.6225	
15	10	0.3	1.47	0.2205	
16	10.5	0.2	0.83	0.083	
17	11	0	0	0	bank
Total				2.8945	

*note Station 2-7 were below m asur m nt constrict ions of Ma sha McBri n y Flow Me e , bu flow wa e ima ed.

Sixmile Creek at Road Crossing

Flow measurement for October 1, 2015					
Water Rights, Inc.			Staff Gauge Reading: 29.5		
Station	Distance (ft)	Depth (ft)	Velocity (ft/sec)	Discharge (cfs)	Comments
1	0.5	0	0	0	bank
2	1	0.275	0.13	0.017875	
3	1.5	0.3	0.03	0.0045	rock
4	2	0.5	0.97	0.2425	rock
5	2.5	0.45	0.85	0.19125	
6	3	0.625	2.1	0.65625	rock
7	3.5	0.6	1.21	0.363	
8	4	0.55	1.36	0.374	
9	4.5	0.55	0.77	0.21175	
10	5	0.6	0.84	0.252	
11	5.5	0.475	0.74	0.17575	
12	6	0.3	0.87	0.1305	
13	6.5	0.2	0.71	0.071	
14	7	0	0	0	
Total				2.690375	

Sixmile Creek Below Siever POD

Flow measurement for August 8, 2017					
Water Rights, Inc.		Staff Guage Reading:			26.25
Station	Distance (ft)	Depth (ft)	Velocity (ft/sec)	Discharge (cfs)	Comments
1	1	0	0	0	bank
2	1.5	0.3	0.1	0.015	rock
3	2	0.4	1.65	0.33	
4	2.5	0.45	1.79	0.40275	
5	3	0.5	1.84	0.46	
6	3.5	0.425	2.27	0.482375	
7	4	0.55	1.93	0.53075	rock
8	4.5	0.5	1.82	0.455	rock
9	5	0.55	2.75	0.75625	
10	5.5	0.5	2.51	0.6275	
11	6	0.45	2.53	0.56925	
12	6.5	0.55	2.14	0.5885	
13	7	0.3	1.78	0.267	
14	7.5	0.3	0.12	0.018	rock
15	8	0.1	0	0	
16	8.5	0	0	0	
Total				5.502375	

Sixmile Creek at Road Crossing

Flow measurement for August 8, 2017					
Water Rights, Inc.		Staff Guage Reading:			Missing
Station	Distance (ft)	Depth (ft)	Velocity (ft/sec)	Discharge (cfs)	Comments
1	1	0	0	0	
2	1.5	0.2	1.3	0.13	
3	2	0.3	0.24	0.036	rock
4	2.5	0.5	2.61	0.6525	
5	3	0.5	2.94	0.735	
6	3.5	0.6	3	0.9	
7	4	0.6	3.27	0.981	
8	4.5	0.7	2.64	0.924	
9	5	0.7	1.72	0.602	
10	5.5	0.75	1.42	0.5325	
11	6	0.55	1.06	0.2915	
12	6.5	0.45	0.8	0.18	
13	7	0.3	0.5	0.075	
14	7.5	0.25	0	0	
15	8	0.15	0	0	
16	8.5	0	0	0	
Total				6.0395	

Sixmile Creek Flow Measurements

Date	Flow at Siever POD (cfs)	Flow at Crossing (cfs)
5/14/2012	7.52	10.9
7/25/2012	5.08	5.98
10/25/2012	3.38	3.46
7/15/2013	3	4.1
7/ /2014	5.92	7.21
0/ /20 5	2.89	2.6
8/8/20 7	5.5	6.4
Averages:	4.88	5.78

From: [Lee Yelin](#)
To: [Dagleish, Alex](#)
Subject: [EXTERNAL] Re: In Stream Flow Change 76M 30171923
Date: Sunday, October 5, 2025 9:50:23 AM
Attachments: [image001.png](#)
[image001.png](#)

Thanks Alex but we did find them and will forward anyway to prove we did continue to obtain them.

On Fri, Oct 3, 2025, 3:26 PM Dagleish, Alex <Alexander.Dagleish@mt.gov> wrote:

Hey Lee,

We received some additional clarification from the Water Sciences Bureau (WSB) regarding the preapplication meeting we had earlier this week for your in-stream flow change. The WSB will not need to do an extended return-flow analysis for this application. Therefore, you do not need to dig up prior stream-flow measurements. Please disregard follow-up question 153.a from the Additional Return Flow Source Sheet.

The WSB will complete a light return-flow analysis, consisting of an evaluation of the annual volume and location of return flows. The Department will still need to know the number of acres historically irrigated by child right 76M 30048497.

Thanks,



Alex Dagleish | Water Conservation Specialist II

Water Resources Division, Missoula Regional Office

Montana Department of Natural Resources and Conservation

[2705 Spurgin Road, Bldg C \[google.com\]](#)

DESK: 406-542-5886 **EMAIL:** alexander.dagleish@mt.gov

[Website](#) | [Facebook \[facebook.com\]](#) | [X \(Twitter \[twitter.com\]\)](#) | [Instagram \[instagram.com\]](#)

How did we do? Let us know here: [Feedback Survey \[forms.office.com\]](#)



**PREAPPLICATION MEETING FORM:
PART A
CHANGE**
§ 85-2-302(3)(b)
Form No. 606P-A (Revised 02/2025)

PREAPPLICATION MEETING FEE

\$ 500

FILING FEE REDUCTION & EXPEDITED TIMELINE

An application will be eligible for a filing fee reduction and expedited timelines if the applicant completes a preapplication meeting with the Department (ARM 36.12.1302(1)), which includes submitting any follow-up information identified by the Department (ARM 36.12.1302(3)(c)) and receiving either Department-completed technical analyses or Department review of applicant-submitted technical analyses (ARM 36.12.1302(4) and (5)). An application for the proposed project also must be submitted within 180 days of delivery of Department technical analyses or scientific credibility review and no element on the submitted application can be changed from the completed preapplication meeting form (ARM 36.12.1302(6)).

For Department Use Only

Application # _____ Basin _____
Meeting Date _____ Time _____
Variance Request Deadline _____
Completed Form Deadline _____

The Department will fill out Form 606P-A and will identify items for follow-up during the preapplication meeting. The Department and Applicant will sign the Preapplication Meeting Affidavit and Certification within 10 business days. Within 180 days of the preapplication meeting, the Applicant will complete Preapplication Meeting Form Part B (Form 606P-B), including identified follow-up, any amended responses, and the Follow-up and Amended Responses Affidavit & Certification.

Applicant Information: Add more as necessary.

Applicant Name _____
Mailing Address _____ City _____ State _____ Zip _____
Phone Numbers: Home _____ Work _____ Cell _____
Email Address _____

Applicant Name _____
Mailing Address _____ City _____ State _____ Zip _____
Phone Numbers: Home _____ Work _____ Cell _____
Email Address _____

Contact/Representative Information: Add more as necessary.

Contact/Representative is: Applicant Consultant Attorney Other (describe) _____
Contact/Representative Name _____
Mailing Address _____ City _____ State _____ Zip _____
Phone Numbers: Home _____ Work _____ Cell _____
Email Address _____

***NOTE:** If a contact person is identified as an attorney, all communication will be sent only to the attorney unless the attorney provides written instruction to the contrary. If a contact person is identified as a consultant, employee, or lessee, the individual filing the water right form or objection form will receive all correspondence and a copy may be sent to the contact person. (ARM 36.12.122)*

Meeting Attendees: Add more as necessary.

Name	Organization	Position



Table of Contents

Application Details	4
Historical Use	10
Historical Use: Place of Use	14
Historical Use: Point of Diversion	16
Historical Use: Period of Diversion	18
Historical Use: Historical Diverted Volume	19
Historical Use: Historical Consumed Volume	21
Historical Use: Historical Places of Storage	25
Surface Water.....	25
Return Flow Analysis	25
Extended Return Flow Analysis	27
GROUNDWATER.....	28
Groundwater Analysis for Changes.....	28
Groundwater Analysis: Well/Pumping Pit.....	28
Groundwater Analysis: Developed Spring	30
Groundwater Analysis: Pond	31
Surface Water Depletion Analysis for Changes.....	32
Surface Water Depletion Analysis: Well/Pumping Pit.....	32
Surface Water Depletion Analysis: Developed Spring	33
Surface Water Depletion Analysis: Pond	34
Extended Surface Water Depletion Analysis.....	35
Return Flow Analysis	36
Extended Return Flow Analysis	38
Mandatory Project-Specific Questions	39
Temporary Change	39
Change in Purpose	40
Ditch-Specific Questions	41
Change in Place of Storage	46
Mitigation, Aquifer Recharge, and Marketing for Mitigation/Aquifer Recharge	47
Instream Flow	51
Salvage Water	52
Non-Mandatory Questions for Criteria Analysis	53
Adverse Effect.....	53
Adverse Effect: Evaluation of Impacts to Identified Surface Water Rights for Return Flow Analysis	55
Adverse Effect: Evaluation of Impacts to Identified Water Rights for Surface Water Depletion Analysis ...	60
Adequate Means of Diversion and Operation	66
Beneficial Use	67
Possessory Interest.....	68
Non-Mandatory Project-Specific Questions	68
Change in Place of Storage	68
Instream Flow Change	69
Mitigation, Aquifer Recharge, and Marketing for Mitigation	70
Water Marketing	70



FOLLOW-UP 72
PREAPPLICATION MEETING AFFIDAVIT & CERTIFICATION 74



Application Details

The following questions are mandatory and must be filled out before the Preapplication Meeting Form is determined to be complete. Narrative responses that are larger than the space provided can be answered in an attachment. If an attachment is used, mark the see attachment (“A”) checkbox on this form and label the attachment with the question number. Constrain narrative responses to the specific question as is asked on the form; do not respond to multiple questions in one narrative. Responses in the form of a table may be entered into the table provided on this form or in an attachment. If an attachment is used, the table must have the exact headings found on this form, and the see attachment (“A”) checkbox must be marked. Label units in narrative responses and tables. Questions that require Applicant to submit items to the Department have a submitted (“S”) checkbox, which is marked when the required item is attached to the Preapplication Meeting Form. Label all submitted items with the question number for which they were submitted. For all questions where follow-up is necessary, mark the “F” checkbox in the “Follow-Up” column and write the question number on the “Follow-Up Page”.

S = Submitted. Use when required item is included with form.

A = See attachment. Use when additional space is needed to answer a question.

F = Follow-up. Use when follow-up is necessary.

<u>Questions, Narrative Responses, and Tables</u>							<u>Check-boxes</u>	<u>Follow-Up</u>
1. Do you elect to have DNRC conduct technical analyses?							<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
2. How many change applications will be needed for this project? Please refer to ARM 36.12.1305 for more information. _____								<input type="checkbox"/> F
3. Which water right(s) are proposed for change?							<input type="checkbox"/> A	<input type="checkbox"/> F
Water Right No.	Current Authorized Flow Rate			Flow Rate Needed for Project			Means of Diversion	
	Flow	GPM	CFS	Flow	GPM	CFS		
		<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>		
		<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>		
		<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>		
		<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>		
		<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>		
4. Is the proposed change on a non-filed water project?							<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
a. If yes, please submit a Non-Filed Water Project Addendum (Form 606/634-NFWPA). The project must meet the requirements of the addendum. The addendum is required before the Preapplication Meeting Form is completed.							<input type="checkbox"/> S	<input type="checkbox"/> F



5. Is the source surface water or groundwater? _____		
6. What is the source name? _____		
7. Identify the water right elements proposed for change, with a checkmark, for each water right proposed for change.	<input type="checkbox"/> A	<input type="checkbox"/> F

Water Right #						
Point of diversion	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Place of use	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Purpose of use	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Place of storage	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

8. Submit a historical use map created on an aerial photograph or topographic map that shows the following: section corners, township and range, scale bar, north arrow, all historical points of diversion (POD) labeled with a unique POD ID ("H" followed by a number), all historical places of use (POU), all historical conveyance structures, all historical places of storage, and historical place of use for all overlapping water rights. More than one map may be submitted, if necessary to clearly convey all required information.	<input type="checkbox"/> S	<input type="checkbox"/> F
9. Submit a proposed use map created on an aerial photograph or topographic map that shows the following: section corners, township and range, scale bar, north arrow, all proposed points of diversion labeled with a unique POD ID ("P" followed by a number), all proposed places of use, all proposed conveyance structures, all proposed places of storage, and proposed place of use for all overlapping water rights. More than one map may be submitted, if necessary to clearly convey all required information.	<input type="checkbox"/> S	<input type="checkbox"/> F
10. Does the change involve a change in point of diversion?	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
a. If yes, describe the location for all <i>new</i> and <i>unchanged</i> points of diversion to the nearest 10 acres. Label POD ID with the POD ID assigned for the proposed use map (question 9).	<input type="checkbox"/> A	<input type="checkbox"/> F

POD ID	1/4	1/4	1/4	Sec	Twp	Rge	County	Lot	Block	Tract	Subdivision	Gov. Lot	New or Unchanged



11. Describe the location of all historical PODs you propose to <i>retire</i> . Label POD ID with the POD ID assigned for the historical use map (question 8). If none are proposed for retirement, write "N/A" here: _____	<input type="checkbox"/> A	<input type="checkbox"/> F
---	----------------------------	----------------------------

POD ID	¼	¼	¼	Sec.	Twp.	Rge	County	Lot	Block	Tract	Subdivision	Gov. Lot

12. What is the means of diversion for all <i>new</i> PODs? Means of diversion for surface water includes headgate, pump, dam, and others. Means of diversion for groundwater includes well, developed spring, pit pond, and others. _____ _____		<input type="checkbox"/> F
--	--	----------------------------

13. Does the change involve a change in place of use?	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
a. If yes,		
i. What are the geocodes of the proposed place of use?	<input type="checkbox"/> A	<input type="checkbox"/> F

ii. Describe the legal land description of the proposed place of use and, if the water rights being changed will have an irrigation or lawn and garden purpose, list the number of irrigated acres.	<input type="checkbox"/> A	<input type="checkbox"/> F
---	----------------------------	----------------------------

Acres	Gov't Lot	¼	¼	¼	Sec	Twp	Rge	County
	Total							



iii. Do other water rights supplement or overlap the historical and/or proposed place of use?	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
1. If yes,		
a. How were the water rights operated to serve the historical purposes and how will they be operated to serve the proposed purposes? _____ _____ _____	<input type="checkbox"/> A	<input type="checkbox"/> F
b. For each supplemental or overlapping water right, please list whether they contribute water for historical use, proposed use, or both; the average period of contribution (MM/DD-MM/DD); flow rate contributed (GPM or CFS); and, if known, the volume of water contributed (AF) contributed (otherwise write "unknown").	<input type="checkbox"/> A	<input type="checkbox"/> F

Water Right No.	Contributions to Use			Average Period of Contribution	Flow Rate Contributed			Volume Contributed
	<i>Hist.</i>	<i>Prop.</i>	<i>Both</i>	<i>MM/DD-MM/DD</i>	<i>Flow</i>	<i>GPM</i>	<i>CFS</i>	<i>AF</i>
						<input type="checkbox"/>	<input type="checkbox"/>	
						<input type="checkbox"/>	<input type="checkbox"/>	
						<input type="checkbox"/>	<input type="checkbox"/>	

14. Does the proposed change include a change in purpose of use? If yes, answer questions 101 to 108 for change in purpose of use and question 13.a.iii for supplemental or overlapping water rights.	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
15. Are conveyance ditches used for historical or proposed uses? If yes, answer ditch-specific questions 109 to 115.	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
16. Do you propose to add or modify one or more places of storage? This does not include reservoirs, pits, pit-dams, or ponds with a capacity less than 0.1 AF; water tanks; or cisterns (ARM 36.12.113(6)). If yes, answer mandatory questions 116 to 123. Additionally, you may choose to answer non-mandatory questions 175 to 179. A Change Storage Addendum (Form 606-SA) will be required at application submittal.	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
17. Is the proposed use temporary? If yes, answer questions 94 to 100 for temporary changes.	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
18. Are you filing on behalf of another entity? If yes, describe. _____ _____	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F



19. Do you own the entire historical place of use for all water rights proposed for change?	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
a. If no, was the water historically used for sale, rental, distribution, municipal use, or any other context in which water is being supplied to another and it is clear that the ultimate user would not accept the supply without consenting to the use of water on the user's place of use?	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
i. If no,		
1. List the water rights for which you do not own the entire historical place of use. _____	<input type="checkbox"/> A	<input type="checkbox"/> F
2. Are the water rights listed in question 19.a.i.1 severed from the historical POU?	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
a. If yes, do you own the entirety of the severed water rights proposed for change?	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
i. If yes, skip to question 20. If no, answer question 19.a.i.3.		
b. If no, answer question 19.a.i.3.		
3. Are all owners of the historical place of use or, if applicable, owners of the severed water rights, willing to sign the application?	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
a. If no,		
i. A Form 641 or 642 to split the water rights being changed must be received and processed by the Department prior to application submittal.		
ii. Describe how the water rights will be split, and which part of the split water rights will be proposed for change. _____ _____ _____	<input type="checkbox"/> A	<input type="checkbox"/> F
20. Are you proposing to add a point of diversion or place of use on State of Montana Trust Land?	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
a. If yes,		
i. Documentation of consent from the DNRC Trust Lands Management Division will be required at application submittal.		
ii. Do you propose to add a place of use on Trust Land with all points of diversion on private land? If yes, the change authorization will be temporary for the duration of the lease term (§85-2-441, MCA); answer temporary change project-specific questions 94 to 100.	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F



21. Will your system be designed to discharge water from the project?	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
<p>a. If yes, explain the wastewater disposal method. A discharge permit may be required to comply with §§ 75-5-410 and 85-2-364, MCA.</p> <p>_____</p> <p>_____</p> <p>_____</p>	<input type="checkbox"/> A	<input type="checkbox"/> F
22. Is the application to change the purpose of use or place of use of an appropriation of 4,000 or more acre-feet (AF) of water a year and 5.5 or more cubic feet per second (CFS)? If yes, you must submit a Reasonable Use Addendum (Form 606-B) with the application. The reasonable use criteria are found in §85-2-402(4-5), MCA.	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
23. Will you be transporting water for use outside of Montana? If yes, you will need to submit an Out-of-State Use Addendum (Form 600/606-OSA) with the application. The out-of-state use criteria are outlined in §85-2-402(6), MCA.	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
24. Is the project located in designated sage grouse habitat? If yes, a review letter from the Montana Sage Grouse Habitat Conservation Program will be required at application submittal.	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
25. Does the application include a mitigation, aquifer recharge, or marketing for mitigation/aquifer recharge purpose? If yes, answer mandatory questions 124 to 129. Additionally, you may choose to answer non-mandatory questions 185 to 190. A Mitigation Addendum (Form 600/606-MIT) will be required with application submittal.	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
26. Does the application include the water marketing purpose? This does not include marketing for mitigation/aquifer recharge. If yes, answer the following question. Additionally, you may choose to answer non-mandatory questions 191 to 195. A Water Marketing Purpose Addendum (Form 600/606-WMA) will be required with application submittal.	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
<p>a. For what purposes will the marketed water be used?</p> <p>_____</p> <p>_____</p> <p>_____</p>	<input type="checkbox"/> A	<input type="checkbox"/> F
27. Does the proposed purpose include instream flow? If yes, answer mandatory questions for instream flow changes 130 to 136. Additionally, you may choose to answer non-mandatory questions 180 to 184. A Change to Instream Flow Addendum (Form 606-IFA) will be required with application submittal.	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
28. Will the proposed use include water made available through creation of a “water saving method” (i.e., salvage water) as defined in ARM 36.12.101? If yes, answer questions 137 to 141 for Salvage Water.	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F



Historical Use

The following questions are mandatory and must be filled out for both Surface Water and Groundwater Applications before the Preapplication Meeting Form is determined to be complete.

<u>Questions, Narrative Responses, and Tables</u>				<u>Check-boxes</u>	<u>Follow-Up</u>
29. What is the water right type for each water right proposed for change? Answer question 30 for each Statement of Claim, question 31 for each Provisional Permit, and question 32 for water right that is not a Statement of Claim or Provisional Permit. _____				<input type="checkbox"/> A	<input type="checkbox"/> F
30. In the table below, write the water right number for each Statement of Claim proposed for change in the "Statement of Claim Number" column. If there is one or more previous change authorizations, write the application numbers for the change authorizations in the "Previous Change Authorization Number" column. If there are no previous change authorizations, write "none" in the "Previous Change Authorization Number" column and "N/A" in all the remaining columns. Write the date of the Project Completion Notice for each previous change authorization in the "Project Completion Notice Date" column and if no Project Completion Notice has been submitted, write "none" instead. In the "Previous Historical Use Analysis Quality" column, describe the quality of the previous historical use analysis.				<input type="checkbox"/> A	<input type="checkbox"/> F
Statement of Claim Number	Previous Change Authorization Number	Project Completion Notice Date	Previous Historical Use Analysis Quality		



31. In the table below, write the water right number for each Provisional Permit proposed for change in the “Provisional Permit Number” column. In the “Project Completion Notice Date” column, write the date of the Project Completion Notice and if no Project Completion Notice has been submitted, write “none” instead. Write the application number for each previous change authorization in the “Previous Change Authorization Number” column. If there are no previous change authorizations, write “none” in the “Previous Change Authorization Number” column and “N/A” in all the remaining columns. Write the date of the Project Completion Notice for each previous change authorization in the “Previous Change Project Completion Notice” column and if no Project Completion Notice has been submitted, write “none” instead. In the “Previous Change Historical Use Analysis Quality” column, describe the quality of the previous historical use analysis.

 A

 F

Provisional Permit Number	Project Completion Notice Date	Previous Change Authorization Number	Previous Change Project Completion Notice Date	Previous Historical Use Analysis Quality

32. In the table below, write the water right number for each water right proposed for change that is not a Statement of Claim or Provisional Permit, the type of water right, and the completion date. If a Groundwater Certificate, the completion date will be the date of filing. If an exempt or non-filed water right, the completion date will be July 1, 1973. If there are one or more previous change authorizations, write the application number for each change authorization in the “Previous Change Authorization Number” column. If there are no previous change authorizations, write “none” in the “Previous Change Authorization Number” column and “N/A” in all the remaining columns. Write the date of the Project Completion Notice for each previous change authorization in the “Previous Change Project Completion Notice Date” column and if the previous change authorization does not have a Project Completion Notice, write “none” instead. In the “Previous Historical Use Analysis Quality” column, describe the quality of the previous historical use analysis.

 A

 F

Water Right Number	Water Right Type	Completion Date	Previous Change Authorization Number	Previous Change Project Completion Notice Date	Previous Historical Use Analysis Quality



33. Are there previous Montana Water Court approved stipulations, Water Master reports, or prior Montana Water Court or Department decisions related to the water right(s) being changed?	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
a. If yes, explain. _____ _____ _____ _____ _____	<input type="checkbox"/> A	<input type="checkbox"/> F
34. Fill in the table below based on ARM 36.12.1902(1) and the information provided in questions 29 to 33. In column "Water Right Number", list all water rights proposed for change. Select one of the three historical use analysis options and fill in the required information associated with that option. Select "Full Historical Use Analysis N/A" only if an unperfected Provisional Permit will be used to serve as historical use in lieu of analysis. If the "Existing Historical Use Analysis" or "Full Historical Use Analysis N/A" option is selected, skip to question 57 because this section is complete.	<input type="checkbox"/> A	<input type="checkbox"/> F

Water Right No. Proposed for Change	Historical Use Analysis Options
	<input type="checkbox"/> New Historical Use Analysis. Date for which historical use will be analyzed: _____
	<input type="checkbox"/> Existing Historical Use Analysis. Change authorization number with existing Historical Use Analysis: _____
	<input type="checkbox"/> Full Historical Use Analysis N/A. Water right number serving as historical use in lieu of analysis: _____



	<input type="checkbox"/> New Historical Use Analysis. Date for which historical use will be analyzed: _____
	<input type="checkbox"/> Existing Historical Use Analysis. Change authorization number with existing Historical Use Analysis: _____
	<input type="checkbox"/> Full Historical Use Analysis N/A. Water right number serving as historical use in lieu of analysis: _____
	<input type="checkbox"/> New Historical Use Analysis. Date for which historical use will be analyzed: _____
	<input type="checkbox"/> Existing Historical Use Analysis. Change authorization number with existing Historical Use Analysis: _____
	<input type="checkbox"/> Full Historical Use Analysis N/A. Water right number serving as historical use in lieu of analysis: _____

35. Do you have knowledge of historical use?	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
a. If yes,		
i. Is this firsthand knowledge?	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
ii. Who has this knowledge and what was their role? _____	<input type="checkbox"/> A	<input type="checkbox"/> F
b. If no, where will the historical use data be derived? _____ _____	<input type="checkbox"/> A	<input type="checkbox"/> F



Fill out the remaining *Historical Use* questions (questions 37 to 56) **one time for each** water right proposed for change. Use the “Additional Water Right Historical Use (606P)” sheet for each additional water right. You may answer **one time for all** water rights proposed for change that have the same purposes, place of use, supplemental water rights, points of diversion, period of use, conveyance, diverted volume parameters, and consumptive volume parameters.

36. What is the water right number for which questions 37 to 56 will be answered? _____		<input type="checkbox"/> F
--	--	----------------------------

Historical Use: Place of Use

37. The historical use map submitted for question 8 must clearly identify the entire place of use for each overlapping water right that intersects the historical place of use. Does your historical use map meet this requirement?	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
38. Are you proposing to change all water rights associated with the historical place of use?	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
a. If no, identify the water rights associated with the historical place of use that are not included in this application. Provide the priority date for each water right and explain why all overlapping water rights are not included in the application. Include water received via contract from a company, district, or water users’ association.	<input type="checkbox"/> A	<input type="checkbox"/> F

Water Right No.	Priority Date	Reason Not Included in Change



39. Answer the section of this question relevant to the historical purpose. If there is more than one purpose, then answer all relevant parts of this question.		
a. All purposes		
i. Does the legal land description from the abstract encompass the actual location of the historical place of use?	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
1. If no, explain the discrepancy and submit historical aerial photographs and/or other data sources to corroborate the location of these historical places of use, and, if a Statement of Claim, submit documentation of a written request submitted to the Water Court for amendment of the Claim. _____	<input type="checkbox"/> S	<input type="checkbox"/> F
b. Irrigation		
i. Is the water right being changed a Statement of Claim?	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
1. If yes, does the Water Resources Survey corroborate the acres irrigated listed on the abstract?	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
a. If no, submit evidence that can corroborate the historical place of use, including the number of irrigated acres. This includes, but is not limited to, aerial photographs, irrigation journals, or logs.	<input type="checkbox"/> S	<input type="checkbox"/> F
2. If no, submit one or more aerial photographs that can corroborate the historical place of use, including the number of irrigated acres.	<input type="checkbox"/> S	<input type="checkbox"/> F
c. Lawn and garden		
i. Submit aerial photographs that can corroborate the historical place of use, including the number of irrigated acres.	<input type="checkbox"/> S	<input type="checkbox"/> F
d. Stock		
i. Submit aerial photographs, grazing records, or other records to corroborate the historical place of use.	<input type="checkbox"/> S	<input type="checkbox"/> F
ii. Did the stock drink direct from source or direct from ditch?	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
1. If no, submit data sources that make clear the location of the stock watering infrastructure.	<input type="checkbox"/> S	<input type="checkbox"/> F
e. Multiple domestic, domestic, municipal, mining, commercial, and other purposes		
i. Submit aerial photographs, deeds, other recorded documents or records, affidavits, or other published documents, such as magazine articles, to corroborate the historical place of use.	<input type="checkbox"/> S	<input type="checkbox"/> F



Historical Use: Point of Diversion

Continue to answer questions for water right(s) identified in question 36. Applications corroborating historical flow rate with the Historical Use Addendum (Form 606-HUA) may be eligible to skip question 42; see the Form 606-HUA for more information.

40. For all historical points of diversion, identify the means, location (¼ ¼ ¼ section), and if they are proposed for change. Label using the same POD ID letter as for the Historical Use Map (question 8). A F

POD ID	Means	Location (¼ ¼ ¼ Section)	Proposed for Change?
			<input type="checkbox"/> Y <input type="checkbox"/> N
			<input type="checkbox"/> Y <input type="checkbox"/> N
			<input type="checkbox"/> Y <input type="checkbox"/> N
			<input type="checkbox"/> Y <input type="checkbox"/> N

41. Do the legal land descriptions from the abstract encompass the actual locations of all historical points of diversion? Y N F

a. If no, explain the discrepancy and submit historical aerial photographs and/or other data sources to corroborate the location of these historical points of diversion, and, if a Statement of Claim, submit documentation of a written request submitted to the Water Court for amendment of the Claim.

S F

42. Answer questions below related to the diversion means for each of the historical points of diversion.

a. Headgate

i. For each headgate, provide dimensions in feet (FT), slope of the channel at the headgate (%), material of the headgate, estimated historical capacity in gallons per minute (GPM) or cubic feet per second (CFS) and the method used to estimate historical capacity. Label using the same POD ID letter as for the Historical Use Map (question 8). A F

POD ID	Dimensions	Slope	Material	Estimated Capacity			Method
	FT	%		Cap.	GPM	CFS	
					<input type="checkbox"/>	<input type="checkbox"/>	
					<input type="checkbox"/>	<input type="checkbox"/>	
					<input type="checkbox"/>	<input type="checkbox"/>	
					<input type="checkbox"/>	<input type="checkbox"/>	
					<input type="checkbox"/>	<input type="checkbox"/>	



b. Pump, dike, dam, or other surface water point of diversion					
i. For each pump, dike, dam, or other surface water point of diversion, provide an estimate of the historical capacity (GPM or CFS) and the method used to estimate the historical capacity. Label using the same POD ID letter as for the Historical Use Map (question 8).				<input type="checkbox"/> A	<input type="checkbox"/> F

POD ID	Estimated Capacity			Method
	Cap.	GPM	CFS	
		<input type="checkbox"/>	<input type="checkbox"/>	
		<input type="checkbox"/>	<input type="checkbox"/>	
		<input type="checkbox"/>	<input type="checkbox"/>	
		<input type="checkbox"/>	<input type="checkbox"/>	
		<input type="checkbox"/>	<input type="checkbox"/>	

c. Well, pit, or other groundwater point of diversion					
i. For each well, pit, or other groundwater point of diversion, provide an estimate of the historical capacity (GPM or CFS) and the method used to estimate the historical capacity. Label using the same POD ID letter as for the Historical Use Map (question 8).				<input type="checkbox"/> A	<input type="checkbox"/> F

POD ID	Estimated Capacity			Method
	Cap.	GPM	CFS	
		<input type="checkbox"/>	<input type="checkbox"/>	
		<input type="checkbox"/>	<input type="checkbox"/>	
		<input type="checkbox"/>	<input type="checkbox"/>	
		<input type="checkbox"/>	<input type="checkbox"/>	
		<input type="checkbox"/>	<input type="checkbox"/>	



43. Do other water rights share any of the points of diversion?	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
a. If yes, list the water rights, their flow rates (GPM or CFS), and the nature of the relationship. Label using the same POD ID letter as for the Historical Use Map (question 8).	<input type="checkbox"/> A	<input type="checkbox"/> F

POD ID	Water Right No.	Flow Rate			Relationship
		Flow	GPM	CFS	
			<input type="checkbox"/>	<input type="checkbox"/>	
			<input type="checkbox"/>	<input type="checkbox"/>	
			<input type="checkbox"/>	<input type="checkbox"/>	
			<input type="checkbox"/>	<input type="checkbox"/>	
			<input type="checkbox"/>	<input type="checkbox"/>	

Historical Use: Period of Diversion

(Continue to answer questions for water right(s) identified in question 36.)

44. Are the period of diversion and the period of use the same?	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
a. If no,		
i. Why are they different?	<input type="checkbox"/> A	<input type="checkbox"/> F

ii. Is there a place of storage?	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
45. When was water diverted for the purposes of the water rights being changed?	<input type="checkbox"/> A	<input type="checkbox"/> F

Start Date (Month (MM)/Day (DD))	End Date (MM/DD)



46. Does the Department have a standard, found in ARM 36.12.112, for the period of diversion for all purposes for which water is used?	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
a. If yes, does the period of diversion for all purposes fall within Department standards?	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
b. If no, or if any period of diversion falls outside Department standards, explain how the period of diversion is reasonable for the purpose. _____	<input type="checkbox"/> A	<input type="checkbox"/> F

Historical Use: Historical Diverted Volume

Continue to answer questions for water right(s) identified in question 36. Applications corroborating historical diverted volume with the Historical Use Addendum (Form 606-HUA) may be eligible to skip question parts of question 47; see the Form 606-HUA for more information.

47. Answer all relevant sections of this question based on whether the historical purpose was irrigation, non-irrigation, or both.		
a. Irrigation		
i. Do you want ARM 36.12.1902(10) to be used to calculate historical diverted volume?	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
1. If no, submit a Historical Water Use Addendum (Form 606-HUA). Form 606-HUA must be submitted to the Department before the Preapplication Meeting Form is completed.	<input type="checkbox"/> S	<input type="checkbox"/> F
ii. What were the crop(s) grown? _____		<input type="checkbox"/> F
1. For hay, how many cuttings were there per season and how many days did cuttings last? Did irrigation cease throughout the place of use for cuttings? For other crops, explain whether irrigation regularly ceased within the irrigation season. For all crops, explain whether diversions ceased during times irrigation did not occur. _____	<input type="checkbox"/> A	<input type="checkbox"/> F



b. Non-irrigation			
i. Explain your historical diversion schedule, with sufficient detail to estimate the volume of water historically diverted. This may include, but is not limited to, days per year water was historically diverted or the number of diversions per year and the duration of each diversion. <hr/> <hr/> <hr/> <hr/>		<input type="checkbox"/> A	<input type="checkbox"/> F
ii. Explain water diverted but not consumed by the non-irrigation purpose(s). This includes, but is not limited to, wastewater discharge and conveyance loss. Ditch-Specific Questions (questions 110 to 111) will gather information necessary for estimating losses from conveyance ditches. <hr/> <hr/> <hr/> <hr/>		<input type="checkbox"/> A	<input type="checkbox"/> F
iii. Did historical diversions serve more than one non-irrigation purpose?		<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
1. If yes, how much of the diversions served each non-irrigation purpose and how did you determine this? <hr/> <hr/> <hr/> <hr/>		<input type="checkbox"/> A	<input type="checkbox"/> F
48. Did diversions ever regularly cease within the period of use due to insufficient water in source or calls based on priority date?		<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
a. If yes, please explain. <hr/> <hr/> <hr/>		<input type="checkbox"/> A	<input type="checkbox"/> F



Historical Use: Historical Consumed Volume

Continue to answer questions for water right(s) identified in question 36. Applications corroborating historical consumptive volume with the Historical Use Addendum (Form 606-HUA) may be eligible to skip parts of question 50; see the Form 606-HUA for more information.

<p>49. What are the historical purposes? Mark each purpose and answer the applicable questions below.</p> <ul style="list-style-type: none"> <input type="checkbox"/> Irrigation. Answer question 50. <input type="checkbox"/> Lawn and garden. Answer question 51. <input type="checkbox"/> Stock. Answer question 52. <input type="checkbox"/> Domestic and multiple domestic. Answer question 53. <input type="checkbox"/> Municipal. Answer question 54. <input type="checkbox"/> Other. Answer question 55. 		
--	--	--

50. Irrigation		
a. Will you use Department standards for historical consumptive use as defined in ARM 36.12.1902?	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
i. If no,		
<p>1. What method will you use to determine historical consumptive use?</p> <p>_____</p> <p>_____</p>	<input type="checkbox"/> A	<input type="checkbox"/> F
<p>2. Submit a Historical Water Use Addendum (Form 606-HUA) to the Department. Form 606-HUA must be submitted to the Department before the Preapplication Meeting Form is completed.</p>	<input type="checkbox"/> S	<input type="checkbox"/> F
ii. If yes,		
<p>1. What is the historical irrigation method type and subtype? Irrigation method types include flood and sprinkler. Flood irrigation subtypes include level border, graded border, furrow, contour ditch, or wild flood. Sprinkler subtypes include wheel line and center pivot.</p> <p>_____</p>	<input type="checkbox"/> A	<input type="checkbox"/> F
<p>2. What was the slope (%) of the historical place of use?</p> <p>_____</p>		<input type="checkbox"/> F



3. Are there any factors beyond irrigation method type/subtype and place of use slope that may influence percent efficiency of irrigation?	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
a. If yes, submit evidence to support the modified percent efficiency of irrigation in the Historical Water Use Addendum (Form 606-HUA). These factors may include infrastructure age, soil characteristics, or field improvements. Form 606-HUA must be submitted to the Department before the Preapplication Meeting Form is completed.	<input type="checkbox"/> S	<input type="checkbox"/> F
4. Based on answers to the above questions, what is the percent efficiency of irrigation? _____		<input type="checkbox"/> F
5. What is the County Management Factor? _____		<input type="checkbox"/> F
6. What is evapotranspiration (ET) based on the irrigation method and county? _____		<input type="checkbox"/> F
7. What percent of applied water are irrecoverable losses per ARM 36.12.1902(17)? _____		<input type="checkbox"/> F



51. Lawn and garden			
a. Will you use a Department standard for historical consumptive use volume for lawn and garden? Department standards include 2.5 acre-feet per acre, or a calculated volume based on Irrigation Water Requirements for turf grass.		<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
i. If yes, which standard? _____			<input type="checkbox"/> F
ii. If no, please provide an estimate of historical water use based on expert analysis and methods used to determine this estimate. _____ _____		<input type="checkbox"/> A	<input type="checkbox"/> F

52. Stock			
a. Which volume standard for animal units applies to historical use and why? The standards are either 15 gallons per animal unit per day for new appropriations or 30 gallons per animal unit per day for claims. _____		<input type="checkbox"/> A	<input type="checkbox"/> F
b. How many animal units were historically served? _____			<input type="checkbox"/> F
c. Did these animal units rely entirely on the water right(s) proposed for change for their full water demand?		<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
i. If no, explain. _____ _____		<input type="checkbox"/> A	<input type="checkbox"/> F



53. Domestic and multiple domestic		
a. How many households were served? _____		<input type="checkbox"/> F
b. Will the Department standard of 1 acre-foot per household be used? The same standard shall be applied to historical and proposed uses.	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
i. If no, what standard will be used? _____		<input type="checkbox"/> F
c. Did the historical use include wastewater disposal and treatment?	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
i. If yes, which of the following best describes the wastewater disposal and treatment system? Individual drain fields, central treatment facility with minimal consumption, or evaporation basin or land application? _____	<input type="checkbox"/> A	<input type="checkbox"/> F

54. Municipal		
a. What is the volume of water (AF) historically consumed for municipal purposes? _____		<input type="checkbox"/> F
b. Submit evidence to support historical municipal use. The data sources may include records that tie water use to the U.S Census, estimates of historical system capacity and estimates of leakage.	<input type="checkbox"/> S	<input type="checkbox"/> F

55. Other		
a. Specify the other purposes. _____		<input type="checkbox"/> F
b. What is the volume of water (AF) historically consumed for other purposes? _____		<input type="checkbox"/> F
c. Submit evidence to support the volume of water historically consumed.	<input type="checkbox"/> S	<input type="checkbox"/> F



Historical Use: Historical Places of Storage

(Continue to answer questions for water right(s) identified in question 36.)

56. Did the historical use include one or more places of storage? This does not include reservoirs, pits, pit-dams, or ponds with a capacity less than 0.1 AF; water tanks; or cisterns (ARM 36.12.113(6)).				<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
a. If yes, for each historical place of storage please provide the surface area in acres (AC), capacity (AF), annual net evaporation (FT/YR), and number of times per year the place of storage was filled.				<input type="checkbox"/> A	<input type="checkbox"/> F
ID	Surface Area (AC)	Capacity (AF)	Annual Net Evaporation (FT/YR)	# of Annual Fillings	

Surface Water

Applicable, move on to question 57. **Not Applicable**, skip to question 66.

The following questions are mandatory for changes to surface water rights and must be filled out before the Preapplication Meeting Form is determined to be complete.

Return Flow Analysis

<u>Questions, Narrative Responses, and Tables</u>	<u>Check-boxes</u>	<u>Follow-Up</u>
57. Do the purposes of the water rights proposed for change include irrigation?	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
a. If yes, does the proposed change include a change in place of use <i>and/or</i> a change in purpose? If you propose to retire acres in the historical place of use and/or add new acres outside the historical place of use, this constitutes a change in place of use.	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
i. If yes, a return flow analysis is required. Move on to answer question 58.		
ii. If no, this section is complete, and you may skip to question 94.		
58. Does the proposed change include a change in purpose?	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
a. If yes, consumptive use information is collected in the Change in Purpose section (questions 101 to 108), skip to question 59.		
b. If no, go to question 59.		
59. Does the proposed change include a change in place of use? If yes, move on to question 60. If no, skip to question 63.	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F



60. Submit a map showing the new, unchanged historical, and retired historical places of use. Create map on an aerial photograph or topographic map that shows the following: section corners, township and range, scale bar, and north arrow. If you have shapefiles associated with this map, in addition to submitting an image of the map, please submit electronic copies of the shapefiles to the Department.	<input type="checkbox"/> S	<input type="checkbox"/> F
61. How many acres, if any, will be retired from the historical place of use? _____		<input type="checkbox"/> F
62. Are irrigated acres proposed that are outside the historical place of use?	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
a. If yes,		
i. How many acres? _____		<input type="checkbox"/> F
ii. What is the proposed irrigation method type (e.g., flood or sprinkler) and subtype (e.g., level border, graded border, furrow, contour ditch, wild flood, center pivot, or wheel line) for the new acres? _____		<input type="checkbox"/> F
iii. What is the slope (%) of the new place of use? _____		<input type="checkbox"/> F
iv. Based on 62.a.ii to 62.a.iii, what is the percent efficiency of irrigation for the new acres? _____		<input type="checkbox"/> F
v. What is the County Management Factor for the new acres? _____		<input type="checkbox"/> F
vi. What is the ET based on the irrigation method and county for the new acres? _____		<input type="checkbox"/> F
vii. What percent of applied water are irrecoverable losses for new acres? _____		<input type="checkbox"/> F
63. Do you have information for the Department to consider about the source and location where return flows historically accrued?	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
a. If yes, submit this information to the Department.	<input type="checkbox"/> S	<input type="checkbox"/> F



Extended Return Flow Analysis

<p>64. Based on the preliminary data provided by the Department at this preapplication meeting, to what surface water sources do return flows accrue before and after the proposed change? <i>*Return flow data provided by the Department at the preapplication meeting is preliminary and is subject to change during technical analyses. If the source or location of return flow data changes during technical analyses, then the analysis of impacts to identified surface water rights will reflect the technical analyses; this will not constitute a change of any element to the proposed application pursuant to ARM 36.12.1302(6)(a).</i></p> <hr/> <hr/>	<input type="checkbox"/> A	<input type="checkbox"/> F
<p>65. If an extended return flow analysis is necessary to analyze impacts to identified surface water rights for the purpose of evaluating adverse effect, do you elect to answer non-mandatory questions 149 to 154 to provide information required for this extended analysis?</p>	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
<p>a. If yes, go to question 149. This information will be used if an extended return flow analysis is necessary to analyze impacts to identified surface water rights for the purpose of evaluating adverse effect.</p>		
<p>b. If no, did you elect in question 1 for the Department to conduct technical analyses?</p>	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
<p>i. If yes, do you elect for the Department to use publicly available water quantity data for the extended return flow analysis? If the extended return flow analysis is needed and sufficient publicly available water quantity data are not available, then the Department will not be able to conduct the extended analysis. You will still have to prove a lack of adverse effect from the proposed change.</p>	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
<p>ii. If no, you may still include the extended return flow analysis with your technical analyses. The Department will include the extended analysis in its scientific credibility review of your technical analyses. You will still need to prove a lack of adverse effect from the proposed change.</p>		



GROUNDWATER

Applicable, move on to question 66. **Not Applicable**, skip to question 94.

The following questions are mandatory for changes to groundwater rights and must be filled out before the Preapplication Meeting Form is determined to be complete.

Groundwater Analysis for Changes

<u>Questions, Narrative Responses, and Tables</u>				<u>Check-boxes</u>	<u>Follow-Up</u>
66. Does the proposed change include a change in point of diversion?				<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
a. If no, this section is complete; skip to question 77.					
b. If yes, a groundwater analysis for changes is required; answer questions specific to the groundwater diversion type.					
i. What is the groundwater diversion type? _____					<input type="checkbox"/> F
Well/Pumping Pit	Answer questions 67 to 72	Developed Spring	Answer question 73	Pond	Answer questions 74 to 76

Groundwater Analysis: Well/Pumping Pit

Applicable Not Applicable

67. Per ARM 36.12.121 a 24- or 72-hour aquifer test is required; do you propose not to conduct the test? An 8-hour test will be required, if no aquifer test is completed.	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
a. If yes, explain. The Department will let you know if the request is reasonable and identify additional data needs. _____ _____ _____ _____	<input type="checkbox"/> A	<input type="checkbox"/> F



<p>68. Submit Aquifer Test Data Form (Form 633) for each <i>new</i> well/pumping pit that will be constructed prior to technical analyses or <i>existing</i> well/pumping pit that is added by the change. If an aquifer test was already conducted for an <i>existing</i> well/pumping pit, and you would like to use that instead of conducting a new aquifer test, describe this in question 67.a.</p> <p>If a variance is requested, Form 633 must be submitted on or before the Variance Request Deadline. If no variance is requested, Form 633 is due by the time the preapplication meeting form is complete but may be submitted earlier. However, if the Department determines a variance is needed and the Variance Request Deadline has passed, to submit the Form 633 you must reschedule the preapplication meeting or submit the application without expedited fees and timelines (ARM 36.12.1302(6)).</p>	<input type="checkbox"/> S	<input type="checkbox"/> F
<p>69. Submit the Aquifer Testing Addendum (Form 600/606-ATA) and associated materials (e.g., well logs). If you request a variance, Form 600/606-ATA must be submitted on or before the Variance Request Deadline. If no variance is requested, Form 600/606-ATA is due by the time the preapplication meeting form is complete but may be submitted earlier. However, if the Department determines a variance is needed and the Variance Request Deadline has passed, to submit the Form 633 you must reschedule the preapplication meeting or submit the application without expedited fees and timelines (ARM 36.12.1302(6)).</p>	<input type="checkbox"/> S	<input type="checkbox"/> F
<p>70. Are you requesting a variance from ARM 36.12.121? If you are unsure if a variance request will be needed, mark follow-up and answer this question once Form 600/606-ATA and Form 633 are complete. A variance must be requested by the Variance Request Deadline.</p>	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
<p>a. If yes, submit Form 653, Form 600/606-ATA, and Form 633 together on or before the Variance Request Deadline.</p>	<input type="checkbox"/> S	<input type="checkbox"/> F
<p>b. If no, you may choose to submit Form 600/606-ATA and Form 633 before the Variance Request Deadline, and the Department will review these two forms. If the Department determines a variance is needed after the Variance Request Deadline, to submit the Form 653 you must reschedule the preapplication meeting or submit the application without expedited fees and timelines (ARM 36.12.1302(6)).</p>		
<p>71. Have all the wells/pumping pits been constructed?</p>	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
<p>a. If no,</p>		
<p>i. Submit a list of the POD IDs for all wells/pumping pits and mark whether they have or have not been constructed.</p>	<input type="checkbox"/> S	<input type="checkbox"/> F
<p>ii. When will the proposed wells/pumping pits be constructed?</p> <p>_____</p>		<input type="checkbox"/> F



iii. Is the requested volume for each proposed well/pumping pit known?	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
1. If yes, list the flow rate and volume requested for each proposed well/pumping pit. Label with POD ID. _____ _____	<input type="checkbox"/> A	<input type="checkbox"/> F
2. If no, what is the total requested volume (AF) and the number of proposed PODs? _____		<input type="checkbox"/> F
72. What is the flow rate (GPM or CFS), volume (AF), and period of diversion (MM/DD-MM/DD) required at each new well/pumping pit ("new") or existing well/pumping pit that is added by the change ("existing")? If the well/pumping pit is not yet constructed, use the estimated volume based on question 71.a.iii.2. What is the well/pumping pit depth (FT), if available, or estimated well/pumping pit depth (FT)? Label using the same POD ID number as the Proposed Use Map (question 9) and, if available, GWIC ID. List whether the POD is <i>new</i> or an <i>existing</i> well added by the change.	<input type="checkbox"/> A	<input type="checkbox"/> F

POD ID	GWIC ID <i>(if available)</i>	Flow Rate			Volume AF	Period of Diversion MM/DD-MM/DD	Depth FT	Measured or Estimated	New or Existing
		Flow	GPM	CFS					
			<input type="checkbox"/>	<input type="checkbox"/>					
			<input type="checkbox"/>	<input type="checkbox"/>					
			<input type="checkbox"/>	<input type="checkbox"/>					
			<input type="checkbox"/>	<input type="checkbox"/>					
			<input type="checkbox"/>	<input type="checkbox"/>					

Groundwater Analysis: Developed Spring

Applicable Not Applicable

73. Have you measured each <i>new</i> developed spring or <i>existing</i> developed spring that will be added by the change?	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
a. If yes, submit the measurements to the Department and answer the following questions:	<input type="checkbox"/> S	<input type="checkbox"/> F
i. Do you have flow rate (GPM or CFS) and volume measurements?	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
ii. With what method were measurements collected? _____ _____	<input type="checkbox"/> A	<input type="checkbox"/> F



iii. What is the interval of measurements? _____		<input type="checkbox"/> F
iv. Is the interval of measurements sufficient to comply with the Department standard of monthly flow measurements taken at regular intervals or at department-approved intervals during the proposed period of diversion?	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
b. If no, or if measurements do not comply with the Department standard, answer the following questions. The Department cannot deem the preapplication meeting form adequately completed until the Department receives measurements that meet the Department standard.		
i. When do you plan to measure? _____	<input type="checkbox"/> A	<input type="checkbox"/> F
ii. With what method and at what interval will measurements be collected? _____ _____	<input type="checkbox"/> A	<input type="checkbox"/> F

Groundwater Analysis: Pond

Applicable Not Applicable

74. Submit Form 653 to apply for a variance from ARM 36.12.121 for the Aquifer Test on or before the Variance Request Deadline.	<input type="checkbox"/> S	<input type="checkbox"/> F
75. Submit bathymetry data, survey, or engineering plans for each <i>new</i> pond added or <i>existing</i> pond added or modified by the proposed change. Label using the same POD ID number as the Proposed Use Map (question 9). List whether the pond is <i>new</i> or an <i>existing</i> pond.	<input type="checkbox"/> S	<input type="checkbox"/> F
76. Are any of the <i>new</i> ponds, or <i>existing</i> ponds added or modified by the proposed change the pond, fed or drained by surface water in addition to groundwater?	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
a. If yes,		
i. Explain. _____ _____ _____	<input type="checkbox"/> A	<input type="checkbox"/> F
ii. Submit measurements of the connected surface water source. These may include inflow and outflow measurements.	<input type="checkbox"/> S	<input type="checkbox"/> F



Surface Water Depletion Analysis for Changes

77. Does the proposed change include any of the following scenarios that necessitate a surface water depletion analysis pursuant to ARM 36.12.1303(5)(c)?					<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
<ul style="list-style-type: none"> • Change in point of diversion • Change in place of use, purpose of use, or place of storage that result in a change in consumptive use or pumping schedule. 						
a. If no, this section is complete; skip to question 85.						
b. If yes, a surface water depletion analysis is required; answer questions specific to the groundwater diversion type.						
i. What is the groundwater diversion type? _____						<input type="checkbox"/> F
Well/Pumping Pit	Answer questions 78 to 79	Developed Spring	Answer question 80	Pond	Answer questions 81 to 82	

Surface Water Depletion Analysis: Well/Pumping Pit

Applicable Not Applicable

78. Provide the following information for each well/pumping pit on the current version of the water rights proposed for change that will either remain on the water rights after the change (“ <i>unchanged</i> ”) or will be retired (“ <i>retired</i> ”): flow rate (GPM or CFS), volume (AF), period of diversion required (MM/DD-MM/DD), well/pumping pit depth (FT) (if available, otherwise or estimated well/pumping pit depth (FT)), and whether it is <i>unchanged</i> or <i>retired</i> . Please use the same POD ID as the Historical Use Map (question 8) and, if available, provide the GWIC ID number.								<input type="checkbox"/> A	<input type="checkbox"/> F
POD ID	GWIC ID (if available)	Flow Rate			Volume AF	Period of Diversion MM/DD-MM/DD	Depth FT	Measured or Estimated	Unchanged or Retired
		Flow Rate	GPM	CFS					
			<input type="checkbox"/>	<input type="checkbox"/>					
			<input type="checkbox"/>	<input type="checkbox"/>					
			<input type="checkbox"/>	<input type="checkbox"/>					
			<input type="checkbox"/>	<input type="checkbox"/>					
			<input type="checkbox"/>	<input type="checkbox"/>					



79. Provide the pumping schedule for each well/pumping pit (*new, existing, unchanged, or retired*) for both *before* and *after* the proposed change. Use the same POD ID as the project maps. For *new* and *existing* wells/pumping pits, use the Proposed Use Map (question 9). For *unchanged* and *retired* wells/pumping pits use the Historical Use Map (question 8). Attach any additional pumping schedules using “*Additional Pumping Schedule (606P)*” sheet. For *retired* wells/pumping pits, mark “N/A” checkbox for after the change and for *new* wells/pumping pits, mark “N/A” checkbox for before the change. Mark the checkbox “Diverted volume/# of Days” if it is a year-round use and the pump schedule is an allocation of diverted volume by the number of days in the month. Mark the checkbox “80% dry year IWR” if it is an irrigation/lawn and garden use and the pump schedule is the 80% dry year net irrigation requirement (IWR, NRCS 2003).

A

F

(Before) POD ID				(After) POD ID			
<input type="checkbox"/> Diverted volume/# of Days <input type="checkbox"/> 80% dry year IWR <input type="checkbox"/> N/A				<input type="checkbox"/> Diverted volume/# of Days <input type="checkbox"/> 80% dry year IWR <input type="checkbox"/> N/A			
Month	Volume (AF)	Month	Volume (AF)	Month	Volume (AF)	Month	Volume (AF)
January		July		January		July	
February		August		February		August	
March		September		March		September	
April		October		April		October	
May		November		May		November	
June		December		June		December	

Surface Water Depletion Analysis: Developed Spring

Applicable Not Applicable

80. Is the type of groundwater diversion for your proposed project a developed spring? If yes, skip to question 85 because no surface water depletion analysis will be necessary.

Y N

F



Surface Water Depletion Analysis: Pond

Applicable Not Applicable

81. Are there any ponds on the current version of the water rights proposed for change that will remain on the water rights unchanged (“ <i>unchanged</i> ”) or will be retired (“ <i>retired</i> ”) ? If yes,	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
a. Did you skip questions 74 to 76 because there is no change in POD? If yes,	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
i. Submit Form 653 to apply for a variance from ARM 36.12.121 for the Aquifer Test on or before the Variance Request Deadline.	<input type="checkbox"/> S	<input type="checkbox"/> F
b. Submit bathymetry data, survey, or engineering plans for each <i>unchanged</i> pond or <i>retired</i> pond. Label the submittal with the POD ID and whether the pond is <i>unchanged</i> or <i>retired</i> .	<input type="checkbox"/> S	<input type="checkbox"/> F
c. Are any of the <i>unchanged</i> or <i>retired</i> ponds fed or drained by surface water, in addition to groundwater?	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
i. If yes,		
1. Explain.	<input type="checkbox"/> A	<input type="checkbox"/> F

2. Submit measurements of the connected surface water source. These may include inflow and outflow measurements.	<input type="checkbox"/> S	<input type="checkbox"/> F



82. Provide the schedule of diversions for out-of-pond use for each pond (*new, existing, unchanged, or retired*) for both *before* and *after* the proposed change. Use the same POD ID as the project maps. For *new* and *existing* ponds, use the Proposed Use Map (question 9). For *unchanged* and *retired* ponds use the Historical Use Map (question 8). Attach any additional diversion schedules using the same format as the table below. For *retired* ponds, mark “N/A” checkbox for after the change and for *new* ponds, mark “N/A” checkbox for before the change. Mark the checkbox “Diverted volume/# of Days” if it is a year-round use and the diversion schedule is an allocation of diverted volume by the number of days in the month. Mark the checkbox “80% dry year IWR” if it is an irrigation or lawn and garden use and the diversion schedule is the 80% dry year net irrigation requirement (IWR, NRCS 2003).

A

F

(Before) POD ID				(After) POD ID			
<input type="checkbox"/> Diverted volume/# of Days <input type="checkbox"/> 80% dry year IWR <input type="checkbox"/> N/A				<input type="checkbox"/> Diverted volume/# of Days <input type="checkbox"/> 80% dry year IWR <input type="checkbox"/> N/A			
Month	Diversions for Out-of-Pond Use Volume (AF)	Month	Diversions for Out-of-Pond Use Volume (AF)	Month	Diversions for Out-of-Pond Use Volume (AF)	Month	Diversions for Out-of-Pond Use Volume (AF)
January		July		January		July	
February		August		February		August	
March		September		March		September	
April		October		April		October	
May		November		May		November	
June		December		June		December	

Extended Surface Water Depletion Analysis

83. Based on the preliminary net depletion data provided by the Department at this preapplication meeting, what are the hydraulically connected surface water sources before and after the proposed change? **Net depletion data provided by the Department at the preapplication meeting are preliminary and are subject to change during the technical analyses. If the source or location of net depletion data changes during the technical analyses, then the extended surface water depletion analysis will reflect the technical analyses; this will not constitute a change of any element to the proposed application pursuant to ARM 36.12.1302(6)(a).*

A

F



84. If an extended surface water depletion analysis is necessary to analyze impacts to identified surface water rights for the purpose of evaluating adverse effect, do you elect to answer non-mandatory questions 157 to 161 to provide information required for this extended surface water depletion analysis?	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
a. If yes, go to question 156. This information will be used if an extended surface water depletion analysis is necessary to analyze impacts to identified surface water rights for the purpose of evaluating adverse effect.		
b. If no, did you elect in question 1 for the Department to conduct technical analyses?	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
i. If yes, do you elect for the Department to use publicly available water quantity data for the extended surface water depletion analysis? If this extended surface water depletion analysis is needed and sufficient publicly available water quantity data are not available, then the Department will not be able to conduct the extended surface water depletion analysis. You will still need to prove a lack of adverse effect from the proposed change.	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
ii. If no, you may still include the extended surface water depletion analysis with your technical analyses. The Department will include the extended analysis in its scientific credibility review of your technical analyses. You will still need to prove a lack of adverse effect from the proposed change.		

Return Flow Analysis

85. Do the purposes of the water rights proposed for change include irrigation?	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
a. If yes, does the proposed change include a change in place of use <i>and/or</i> a change in purpose? If you propose to retire acres in the historical place of use and/or add new acres outside the historical place of use, this constitutes a change in place of use.	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
i. If yes, a return flow analysis is required. Move on to answer question 86.		
ii. If no, this section is complete, and you may skip to question 94.		
86. Does the proposed change include a change in purpose?	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
a. If yes, consumptive use information is collected in the Change in Purpose section (questions 101 to 108), skip to question 87.		
b. If no, skip to question 87.		
87. Does the proposed change include a change in place of use? If yes, move on to question 88. If no, skip to question 91.	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F



88. Submit a map showing the new, unchanged historical, and retired historical places of use. Create map on an aerial photograph or topographic map that shows the following: section corners, township and range, scale bar, and north arrow. If you have shapefiles associated with this map, in addition to submitting an image of the map, please submit electronic copies of the shapefiles to the Department.	<input type="checkbox"/> S	<input type="checkbox"/> F
89. How many acres, if any, will be retired from the historical place of use? _____		<input type="checkbox"/> F
90. Are irrigated acres proposed that are outside the historical place of use?	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
a. If yes,		
i. How many acres? _____		<input type="checkbox"/> F
ii. What is the proposed irrigation method type (e.g., flood or sprinkler) and subtype (e.g., level border, graded border, furrow, contour ditch, wild flood, center pivot, or wheel line) for the new acres? _____	<input type="checkbox"/> A	<input type="checkbox"/> F
iii. What is the slope (%) of the new place of use? _____		<input type="checkbox"/> F
iv. Based on question 90.a.ii to 90.a.iii, what is the percent efficiency of irrigation for the new acres? _____		<input type="checkbox"/> F
v. What is the County Management Factor for the new acres? _____		<input type="checkbox"/> F
vi. What is the ET based on the irrigation method and county for the new acres? _____		<input type="checkbox"/> F
vii. What percent of applied water are irrecoverable losses for new acres? _____		<input type="checkbox"/> F
91. Do you have information for the Department to consider about the source and location where return flows historically accrued?	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
a. If yes, submit this information to the Department.	<input type="checkbox"/> S	<input type="checkbox"/> F



Extended Return Flow Analysis

<p>92. Based on the preliminary data provided by the Department at this preapplication meeting, to what surface water sources do return flows accrue before and after the proposed change? <i>*Return flow data provided by the Department at the preapplication meeting are preliminary and are subject to change during technical analyses. If the source or location of return flow data changes during technical analyses, then the analysis of impacts to identified surface water rights will reflect the technical analyses; this will not constitute a change of any element to the proposed application pursuant to ARM 36.12.1302(6)(a).</i></p> <hr/> <hr/>	<input type="checkbox"/> A	<input type="checkbox"/> F
<p>93. If an extended return flow analysis is necessary to analyze impacts to identified surface water rights for the purpose of evaluating adverse effect, do you elect to answer non-mandatory questions 149 to 155 to provide information required for this extended analysis?</p>	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
<p>a. If yes, go to question 149. This information will be used if an extended return flow analysis is necessary to analyze impacts to identified surface water rights for the purpose of evaluating adverse effect.</p>		
<p>b. If no, did you elect in question 1 for the Department to conduct technical analyses?</p>	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
<p>i. If yes, do you elect for the Department to use publicly available water quantity data for the extended return flow analysis? If the extended return flow analysis is needed and sufficient publicly available water quantity data are not available, then the Department will not be able to conduct the extended analysis. You will still have to prove a lack of adverse effect from the proposed change.</p>	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
<p>ii. If no, you may still include the extended return flow analysis with your technical analyses. The Department will include the extended analysis in its scientific credibility review of your technical analyses. You will still need to prove a lack of adverse effect from the proposed change.</p>		



Mandatory Project-Specific Questions

The following questions are mandatory when applicable and must be filled out before the Preapplication Meeting Form is determined to be complete.

Temporary Change

<u>Questions, Narrative Responses, and Tables</u>	<u>Check-boxes</u>	<u>Follow-Up</u>
94. Does the proposal include a temporary change? <i>This includes proposing to add a place of use on State of Montana Trust Land, with all points of diversion on private land, because the change authorization will be temporary for the duration of the lease term.</i> If yes, answer the questions in this section (questions 95 to 100). If no, this section is complete; skip to question 100.	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
95. What elements of the water rights are being temporarily changed? _____		<input type="checkbox"/> F
96. For what purpose will the water rights be temporarily used? _____		<input type="checkbox"/> F
97. For how many years will the water rights be temporarily changed? _____		<input type="checkbox"/> F
98. Will the temporary change be intermittent over the years?	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
a. If yes, explain. _____	<input type="checkbox"/> A	<input type="checkbox"/> F
99. Is the quantity of water subject to the temporary change being made available from the development of a new water conservation or storage project?	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
a. If yes, explain the water conservation or storage project. _____ _____ _____	<input type="checkbox"/> A	<input type="checkbox"/> F
100. If you are answering Project-Specific Questions as they are referenced in Application Details, return to question 17 if you are proposing to add a place of use on State of Montana Trust Land and question 20.a.ii if you are proposing a temporary change that does not involve State of Montana Trust Land. If you are answering in consecutive order, go to question 101.		



Change in Purpose

101. Does the project involve a change in purpose? If yes, answer the questions in this section (questions 102 to 108). If no, this section is complete; skip to question 108.	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
102. Identify the new and unchanged purposes, flow rate (GPM or CFS), volume (AF), period of diversion, and period of use (MM/DD-MM/DD) for each purpose.	<input type="checkbox"/> A	<input type="checkbox"/> F

Purpose	New or Unchanged?	Period of Diversion (MM/DD-MM/DD)	Period of Use (MM/DD-MM/DD)	Flow Rate			Volume (AF)
				Flow Rate	GPM	CFS	
					<input type="checkbox"/>	<input type="checkbox"/>	
					<input type="checkbox"/>	<input type="checkbox"/>	
					<input type="checkbox"/>	<input type="checkbox"/>	
					<input type="checkbox"/>	<input type="checkbox"/>	
					<input type="checkbox"/>	<input type="checkbox"/>	
Total					<input type="checkbox"/>	<input type="checkbox"/>	

103. Answer the questions specific to each new and unchanged purpose identified in question 102.									
Lawn and garden	Question 104	Stock	Question 105	Domestic and multiple domestic	Question 106	Other purpose	Question 107		

104. Lawn and garden		
a. Will consumptive use be based on the standard of 2.5 acre-feet per acre or a calculated volume based on Irrigation Water Requirements for turf grass?	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
i. If yes, which standard? _____		<input type="checkbox"/> F
ii. If no, describe how consumptive use will be estimated. This must be based on expert analysis. _____ _____	<input type="checkbox"/> A	<input type="checkbox"/> F
105. Stock		
a. How many animal units will be served? _____		<input type="checkbox"/> F



106. Domestic and multiple domestic		
a. How many households will be served? _____		<input type="checkbox"/> F
b. Will the Department standard of 1 acre-foot per household be used to determine consumptive use?	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
i. If no, what standard will be used? _____	<input type="checkbox"/> A	<input type="checkbox"/> F
c. Will the proposed use include wastewater disposal and treatment?	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
i. If yes, which of the following best describes the wastewater disposal and treatment system? Individual drain fields, central treatment facility with minimal consumption, or evaporation basin or land application? _____		<input type="checkbox"/> F
107. Other purpose		
a. What is the other purpose (e.g., municipal, commercial)? _____		<input type="checkbox"/> F
b. What is the percentage of consumption for the proposed use? Please explain. _____ _____ _____	<input type="checkbox"/> A	<input type="checkbox"/> F
108. If you are answering Project Specific Questions as they are referenced in Application Details, return to question 14 and if you are answering in consecutive order, go to question 109.		

Ditch-Specific Questions

Applications corroborating historical diverted volume with the Historical Use Addendum (Form 606-HUA) may be eligible to skip one or more questions in this section; see the Form 606-HUA for more information.

109. Does the historical use of water include at least one conveyance ditch? If yes, answer questions 110 to 111. If no, skip to question 112.	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
110. Submit a Historical Use Ditch Map that shows every ditch conveying water for the historical use of all water rights proposed for change. Label the ditch names, PODs, the POUs, and the ditch measurement locations (requested in question 111.d). The map should be created on a historical image or topographic map with the following: section corners, township and range, scale bar, and north arrow.	<input type="checkbox"/> S	<input type="checkbox"/> F



111. Answer question 111.a to 111.h one time for each historical conveyance ditch. If there is more than one historical conveyance ditch, use an "Additional Historical Ditch (606P)" sheet for each additional ditch.		
a. What is the ditch name? _____		<input type="checkbox"/> F
b. List the water rights proposed for change that were conveyed by the ditch. _____ _____		<input type="checkbox"/> F
c. What is the distance water was historically carried by the conveyance ditch? Only include segments between the POD and start of the POU; do not include segments within the POU. _____	<input type="checkbox"/> A	<input type="checkbox"/> F
d. Provide at least one set of ditch measurements, which include width (FT), depth (FT), and slope (%). Discuss ditch characteristics with DNRC to determine the minimum number of ditch measurements. Include the location of each measurement, labeled with the 2-digit measurement ID number, used on the map submitted for question 110.	<input type="checkbox"/> S	<input type="checkbox"/> F

ID #	Width (FT)	Depth (FT)	Slope (%)	Date of Measurement

e. What is a reasonable Manning's n value? List the factors used for estimation. If you do not know this value, please work through estimation with the Department. _____ _____	<input type="checkbox"/> A	<input type="checkbox"/> F
f. What type of soils compose the historical conveyance ditch? For lined ditches, write "lined" instead. _____ _____	<input type="checkbox"/> A	<input type="checkbox"/> F



g. Are other water rights conveyed by the historical conveyance ditch?	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
i. If yes,		
1. List the water right numbers and their flow rates. _____ _____ _____	<input type="checkbox"/> A	<input type="checkbox"/> F
2. What is the sum of the flow rates, including the water rights proposed for change? _____	<input type="checkbox"/> A	<input type="checkbox"/> F
3. Submit a map with your best estimate of the historical POUs for the other water rights conveyed by the historical conveyance ditch. Include only POUs between the historical POD and your historical POU. If you do not know this information, the Department can help you create the map. The map should be created on an aerial photograph or topographic map and show the following: section corners, township and range, scale bar, and north arrow.	<input type="checkbox"/> S	<input type="checkbox"/> F
h. Were any water rights proposed for change part of one historical water right that was split?	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
i. If yes, were all split water rights split in such a way to ensure each post-split water right could stand alone and not be reliant on the others for carriage water?	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
1. If no, do any of the water rights proposed for change have a carriage water requirement?	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
a. If yes,		
i. List the water rights with a carriage water requirement _____		<input type="checkbox"/> F
ii. Update your Historical Use Ditch Map (question 110) to label the ditch segments where a carriage water requirement exists for a water right proposed for change. Also, use your best estimate to label the POUs for all water rights included in the carriage water requirement. If you do not know this information, the Department can help you update the map.	<input type="checkbox"/> S	<input type="checkbox"/> F
112. Does the proposed use include at least one existing or new conveyance ditch? If yes, answer questions 113 to 114. If no, or if you answered these questions earlier in the preapplication meeting, this section is complete; skip to question 115.	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F



113. Submit a Proposed Use Ditch Map that shows every ditch conveying the water rights proposed for change, including any unchanged portions. Label all unchanged and proposed PODs, all unchanged and proposed POUs, and additional ditch measurement locations (requested in question 114.e). The map should be created on an aerial photograph or topographic map with the following: section corners, township and range, scale bar, and north arrow.	<input type="checkbox"/> S	<input type="checkbox"/> F
114. Answer the questions 114.a to 114.i one time for each proposed use conveyance ditch. Use an "Additional Proposed Use Ditch (606P)" sheet for each additional ditch.		
a. What is the ditch name? _____		<input type="checkbox"/> F
b. Is this ditch a historical conveyance ditch detailed in questions 110 to 111?	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
i. If yes, have any of the following details changed, to the best of your knowledge, from historical conditions: ditch length, distance water conveyed, ditch lining, or water rights conveyed by the ditch?	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
1. If yes, answer questions 114.c to 114.i using current data.		
2. If no, do not answer questions 114.c to 114.i for this ditch because the information remains unchanged. Move on to the next proposed use conveyance ditch, or if none remain, skip to question 115.		
c. List the water rights proposed for change that are going to be conveyed by the ditch. _____		<input type="checkbox"/> F
d. What is the distance water will be carried by the conveyance ditch? Only include segments between the POD and start of the POU; do not include segments within the POU. _____ _____	<input type="checkbox"/> A	<input type="checkbox"/> F
e. Provide at least one set of ditch measurements, which include width (FT), depth (FT), and slope (%). Discuss ditch characteristics with DNRC to determine the minimum number of ditch measurements. Include the location of each measurement, labeled with the 2-digit measurement ID number, used on the map submitted for question 113.	<input type="checkbox"/> S	<input type="checkbox"/> F

ID #	Width (FT)	Depth (FT)	Slope (%)	Date of Measurement



<p>f. What is a reasonable Manning's n value? List the factors used for estimation. If you do not know this value, please work through estimation with the Department.</p> <p>_____</p> <p>_____</p>	<input type="checkbox"/> A	<input type="checkbox"/> F
<p>g. What type of soils compose the proposed conveyance ditch? For lined ditches, write "lined" instead.</p> <p>_____</p> <p>_____</p>	<input type="checkbox"/> A	<input type="checkbox"/> F
<p>h. Are other water rights conveyed by the proposed conveyance ditch?</p>	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
<p>i. If yes,</p>		
<p>1. List the water right numbers and their flow rates.</p> <p>_____</p> <p>_____</p> <p>_____</p>	<input type="checkbox"/> A	<input type="checkbox"/> F
<p>2. What is the sum of the flow rates, including the water rights proposed for change?</p> <p>_____</p>	<input type="checkbox"/> A	<input type="checkbox"/> F
<p>3. Submit a map with your best estimate of the location of current POUs for the other water rights conveyed by the proposed conveyance ditch. Include only POUs between the POD and your proposed POU. If you do not know this information, the Department can help you create the map. The map should be created on an aerial photograph or topographic map and show the following: section corners, township and range, scale bar, and north arrow.</p>	<input type="checkbox"/> S	<input type="checkbox"/> F
<p>i. Were any water right(s) proposed for change identified as having a carriage water requirement in question 111.h.i.1.a.i?</p>	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
<p>i. If yes, update your Proposed Use Ditch Map (question 113) to label the ditch segments where a carriage water requirement exists for a water right proposed for change. Also, use your best estimate to label the POUs for all water rights included in the carriage water requirement. If you do not know this information, the Department can help you update the map.</p>	<input type="checkbox"/> S	<input type="checkbox"/> F
<p>115. If you are answering Project Specific Questions as they are referenced in Application Details, return to question 15 and if you are answering in consecutive order, go to question 116.</p>		



Change in Place of Storage

<p>116. Does the project involve a change in place of storage? If yes, answer the questions in this section (questions 117 to 122) for each individual place of storage. Use an “Additional Place of Storage (606P)” sheet for additional places of storage. If no, this section is complete; skip to question 123.</p>	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
<p>117. Is this application to add a new place of storage or change an existing place of storage? _____</p>		<input type="checkbox"/> F
<p>a. If application is to change an existing place of storage, list the water rights that include the place of storage and a short description of the proposed change. _____ _____</p>	<input type="checkbox"/> A	<input type="checkbox"/> F
<p>118. Is the place of storage located on-stream?</p>	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
<p>a. If no, describe any losses related to conveyance that are not detailed in “Ditch-Specific Questions.” _____ _____ _____</p>	<input type="checkbox"/> A	
<p>119. What is the proposed capacity of the place of storage? Use bathymetry data, survey, or engineering plans for capacity. Submit the data source used with this form. In lieu of these data sources, use the following equation: <i>Surface Acres x Maximum Depth (ft) x 0.5 = Capacity (AF)</i> _____</p>	<input type="checkbox"/> S	<input type="checkbox"/> F
<p>120. What is the proposed surface area of the place of storage? _____</p>	<input type="checkbox"/> A	<input type="checkbox"/> F
<p>121. What is the annual net evaporation of water from the place of storage based on the Department's gridded net evaporation layer? If you propose a different method, attach an explanation and justification of the method. _____</p>	A	<input type="checkbox"/> F
<p>122. Will the place of storage be lined?</p>	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
<p>123. If you are answering Project-Specific Questions as they are referenced in Application Details, return to question 16 and if you are answering in consecutive order, go to question 109.</p>		



Mitigation, Aquifer Recharge, and Marketing for Mitigation/Aquifer Recharge

124. Does your application include one of the following purposes? If no, this section is complete; skip to question 129.	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
a. Mitigation water. If yes, answer question 125 and 126.	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
b. Aquifer recharge water. If yes, answer question 125 and 127.	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
c. Marketing for mitigation/aquifer recharge. If yes, answer question 128.	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
125. Mitigation Water and Aquifer Recharge Water		
a. Identify the water right(s) for which the mitigation/aquifer recharge water will be used. _____	<input type="checkbox"/> A	<input type="checkbox"/> F
b. Identify the application or preapplication number where these water rights were identified as needing mitigation or aquifer recharge to meet the adverse effect criterion. _____	<input type="checkbox"/> A	<input type="checkbox"/> F
c. What is the timing, flow rate, and volume of net depletions identified as needing mitigation or aquifer recharge to meet the adverse effect criterion?	<input type="checkbox"/> A	<input type="checkbox"/> F

Month	Days	Flow Rate			Volume	Month	Days	Flow Rate			Volume
		Flow	GPM	CFS				AF	Flow	GPM	
January			<input type="checkbox"/>	<input type="checkbox"/>		July		<input type="checkbox"/>	<input type="checkbox"/>		
February			<input type="checkbox"/>	<input type="checkbox"/>		August		<input type="checkbox"/>	<input type="checkbox"/>		
March			<input type="checkbox"/>	<input type="checkbox"/>		September		<input type="checkbox"/>	<input type="checkbox"/>		
April			<input type="checkbox"/>	<input type="checkbox"/>		October		<input type="checkbox"/>	<input type="checkbox"/>		
May			<input type="checkbox"/>	<input type="checkbox"/>		November		<input type="checkbox"/>	<input type="checkbox"/>		
June			<input type="checkbox"/>	<input type="checkbox"/>		December		<input type="checkbox"/>	<input type="checkbox"/>		



d. Will other water contribute to the need for mitigation or aquifer recharge water? This may include water rights with a mitigation or aquifer recharge purpose, marketing for mitigation contracts, or mitigation water secured via other types of contracts.	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
i. If yes, describe the origin of this water and in the table below, list how much it will contribute. _____	<input type="checkbox"/> A	<input type="checkbox"/> F

Month	Days	Flow Rate			Volume	Month	Days	Flow Rate			Volume
		Flow	GPM	CFS				AF	Flow	GPM	
January			<input type="checkbox"/>	<input type="checkbox"/>		July		<input type="checkbox"/>	<input type="checkbox"/>		
February			<input type="checkbox"/>	<input type="checkbox"/>		August		<input type="checkbox"/>	<input type="checkbox"/>		
March			<input type="checkbox"/>	<input type="checkbox"/>		September		<input type="checkbox"/>	<input type="checkbox"/>		
April			<input type="checkbox"/>	<input type="checkbox"/>		October		<input type="checkbox"/>	<input type="checkbox"/>		
May			<input type="checkbox"/>	<input type="checkbox"/>		November		<input type="checkbox"/>	<input type="checkbox"/>		
June			<input type="checkbox"/>	<input type="checkbox"/>		December		<input type="checkbox"/>	<input type="checkbox"/>		

126. Mitigation Water			
a. What is legal land description (¼ ¼ ¼ section of start and end) and length (ft) of the mitigation reach? _____	<input type="checkbox"/> A	<input type="checkbox"/> F	
b. By what means will mitigation water be made available? You must submit a copy of all relevant discharge permits at application submittal (§85-2-364, MCA). _____ _____ _____	<input type="checkbox"/> A	<input type="checkbox"/> F	
127. Aquifer Recharge Water			
a. What is the legal land description (¼ ¼ ¼ section) of the start of net depletions for which the aquifer recharge water will be used? _____	<input type="checkbox"/> A	<input type="checkbox"/> F	



<p>b. What is the volume of net depletions that will be offset by the aquifer recharge water? <i>The volume of aquifer recharge water injected may not equal the volume of net depletions.</i></p> <hr/>	<input type="checkbox"/> A	<input type="checkbox"/> F
<p>c. Describe the method of aquifer recharge. Include, if available, a preliminary design. You must submit a copy of all relevant discharge permits at application submittal (§85-2-364, MCA).</p> <hr/> <hr/> <hr/>	<input type="checkbox"/> A	<input type="checkbox"/> F
<p>d. Describe any constraints on the aquifer recharge schedule, such as priority date limitations.</p> <hr/>	<input type="checkbox"/> A	<input type="checkbox"/> F
<p>e. What is the proposed area or location of aquifer recharge? <i>The location is subject to refinement during technical analyses; this will not constitute a change of any element to the proposed application pursuant to ARM 36.12.1302(6)(a).</i></p> <hr/> <hr/> <hr/>	<input type="checkbox"/> A	<input type="checkbox"/> F
<p>128. Marketing for Mitigation/Aquifer Recharge</p>		
<p>a. What is the proposed location of the reach where water is to be marketed ($\frac{1}{4}$ $\frac{1}{4}$ $\frac{1}{4}$ section of the start and the end of the reach)?</p> <hr/>	<input type="checkbox"/> A	<input type="checkbox"/> F
<p>b. Is this marketing for mitigation</p>	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
<p>i. If yes, by what means will water be made available?</p> <hr/> <hr/> <hr/>	<input type="checkbox"/> A	<input type="checkbox"/> F



c. Is this marketing for aquifer recharge?	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
i. If yes,		
1. Describe the method of aquifer recharge. Include, if available, a preliminary design. You must submit a copy of all relevant discharge permits at application submittal (§85-2-364, MCA). _____ _____ _____ _____	<input type="checkbox"/> A	<input type="checkbox"/> F
2. What is the volume of water that will be used for aquifer recharge? _____	<input type="checkbox"/> A	<input type="checkbox"/> F
3. Describe any constraints on the aquifer recharge schedule, such as priority date limitations. _____ _____	<input type="checkbox"/> A	<input type="checkbox"/> F
4. What is the proposed area or location of aquifer recharge? <i>The location is subject to refinement during technical analyses; this will not constitute a change of any element to the proposed application pursuant to ARM 36.12.1302(6)(a).</i> _____ _____ _____	<input type="checkbox"/> A	<input type="checkbox"/> F
d. Describe your ability to measure and operate all existing diversions to adjust flow rate as water is sold or leased. _____ _____ _____ _____	<input type="checkbox"/> A	<input type="checkbox"/> F



<p>e. How will you cease diversions for the existing beneficial use as water is sold or leased?</p> <p>_____</p> <p>_____</p> <p>_____</p>	<input type="checkbox"/> A	<input type="checkbox"/> F
<p>129. If you are answering Project-Specific Questions as they are referenced in Application Details, return to question 25 and if you are answering in consecutive order, go to question 130.</p>		

Instream Flow

<p>130. Does the project involve an instream flow change? If yes, answer the questions in this section (questions 131 to 136). If no, this section is complete; skip to question 136.</p>	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
<p>131. What is the source name where streamflow will be maintained or enhanced?</p> <p>_____</p>		<input type="checkbox"/> F
<p>132. What is the location (¼ ¼ ¼ section of start and end of reach) and length (FT) of the protected reach?</p> <p>_____</p>	<input type="checkbox"/> A	<input type="checkbox"/> F
<p>133. Describe the way the streamflow is to be maintained or enhanced.</p> <p>_____</p> <p>_____</p>	<input type="checkbox"/> A	<input type="checkbox"/> F
<p>134. Do you propose to retire all water use associated with the historical purposes throughout the entire period of use? This includes conveyance loss associated with historical ditches.</p>	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
<p>a. If no, describe the proposed change to existing purposes, including flow rate, volume, and, if applicable, acres.</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>	<input type="checkbox"/> A	<input type="checkbox"/> F
<p>135. Do historical and proposed return flows accrete to the source of supply? The Department provides an initial estimate of the source(s) that historical and proposed returns flows accrete to at the preapplication meeting.</p>	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F



136. If you are answering Project Specific Questions as they are referenced in Application Details, return to question 27 and if you are answering in consecutive order, go to question 137.		
--	--	--

Salvage Water

137. Does this project involve salvage water? Salvage water does not include destroying phreatophytes, removing vegetation, converting to a less consumptive crop, or converting to a partial irrigation schedule. If yes, answer the questions in this section (questions 138 to 141). If no, this section is complete; skip to question 141.	<input type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> F
138. What water saving method was implemented? This may include lining an unlined ditch or canal, converting unlined ditch or canal to pipeline, converting high profile or high-pressure sprinklers to low pressure, and others. _____ _____	<input type="checkbox"/> A	<input type="checkbox"/> F
139. How much water was salvaged from implementation of the water saving method? Include flow rate (GPM or CFS) and volume (AF). _____		<input type="checkbox"/> F
140. How did you determine the amount of water salvaged? _____ _____ _____ _____	<input type="checkbox"/> A	<input type="checkbox"/> F
141. If you are answering Project Specific Questions as they are referenced in Application Details, return to question 28 and if you are answering in consecutive order, go to question 142.		



Non-Mandatory Questions for Criteria Analysis

The following questions are not mandatory. They should be discussed in the Preapplication Meeting, but do not need to be filled out before the Preapplication Meeting Form is determined to be complete.

Adverse Effect

<u>Questions, Narrative Responses, and Tables</u>	<u>Check-boxes</u>
142. Describe your plan to ensure that existing water rights will be satisfied during times of water shortage. _____ _____ _____ _____	<input type="checkbox"/> A
143. Explain how you can control your diversion in response to call being made. _____ _____ _____	<input type="checkbox"/> A
144. Are you aware of any calls that have been made on any source of supply or depleted surface water source?	<input type="checkbox"/> Y <input type="checkbox"/> N
a. If yes, explain. _____ _____	<input type="checkbox"/> A
145. Does a water commissioner distribute water or oversee water distribution on your proposed source or depleted surface water source?	<input type="checkbox"/> Y <input type="checkbox"/> N
a. If yes, list the sources and explain. _____ _____	<input type="checkbox"/> A
146. Describe how the change will or will not affect your ability to make call. _____ _____	<input type="checkbox"/> A



<p>147. When was the last time each water right proposed for change was appropriated and used beneficially? If there has been a period of nonuse, answer questions 147.a to 147.d.</p> <p>_____</p>	
<p>a. Why was the water right not used?</p> <p>_____</p> <p>_____</p>	<input type="checkbox"/> A
<p>b. Why will a resumption of use not adversely affect other water users?</p> <p>_____</p> <p>_____</p> <p>_____</p>	<input type="checkbox"/> A
<p>c. Is the period of nonuse greater than 10 years for any of the water rights proposed for change? If yes, list which water rights. _____</p>	<input type="checkbox"/> Y <input type="checkbox"/> N
<p>d. Have water rights been authorized to use the source during the period of nonuse for any of the water rights proposed for change? If yes, explain.</p> <p>_____</p> <p>_____</p>	<input type="checkbox"/> Y <input type="checkbox"/> N
<p>148. Is this a point of diversion change?</p>	<input type="checkbox"/> Y <input type="checkbox"/> N
<p>a. If yes,</p>	
<p>i. Are the proposed points of diversion upstream or downstream of the historical points of diversion?</p> <p>_____</p>	
<p>ii. Are there intervening water users between the historical and proposed points of diversion?</p>	<input type="checkbox"/> Y <input type="checkbox"/> N
<p>1. If yes, list the water rights.</p> <p>_____</p> <p>_____</p>	<input type="checkbox"/> A



iii. Will any new points of diversion or conveyance infrastructure be shared with one or more existing water rights?	<input type="checkbox"/> Y <input type="checkbox"/> N
1. If yes, describe how capacity of the new shared point of diversion and/or conveyance infrastructure is sufficient for all water rights. _____ _____ _____	<input type="checkbox"/> A

Adverse Effect: Evaluation of Impacts to Identified Surface Water Rights for Return Flow Analysis

149. Respond to questions in this section if you elected in questions 65 or 93 to answer optional questions 150 to 154. Answer one time for each surface water source receiving return flows. Use "Additional Return Flow Source (606P)" sheet if there is more than one source. If you did not elect to answer these questions or answered these questions earlier in the preapplication meeting, this section is complete; skip to question 155.	
150. What is the surface water source for which you are answering questions 151 to 154? _____	
151. Are stream gage data available?	<input type="checkbox"/> Y <input type="checkbox"/> N
a. If yes, answer question 152.	
b. If no, answer question 153.	
152. Stream gage data are available	
a. Is one stream gage located above, and one stream gage located below the location where return flows accrue?	<input type="checkbox"/> Y <input type="checkbox"/> N
i. If no, is only one stream gage located near the location where return flows accrue?	<input type="checkbox"/> Y <input type="checkbox"/> N
1. If yes, is the stream gage upstream or downstream? _____	
b. List the gage name(s). Write "N/A" for Gage 2 if one gage available. Gage 1: _____ Gage 2: _____	



<p>c. What is the distance between the gage(s) and the location where return flows accrue? Write "N/A" for Gage 2 if one gage available. Gage 1: _____ Gage 2: _____</p>	
<p>d. Is there a limiting or controlling factor on the source between the stream gage(s) and the location where return flows accrue? This includes dams that control the flow and streams with large gaining and/or losing reaches.</p>	<input type="checkbox"/> Y <input type="checkbox"/> N
<p>i. If yes, explain. _____ _____</p>	<input type="checkbox"/> A
<p>e. How long is the period of record? Write "N/A" for Gage 2 if one gage is available. Gage 1: _____ Gage 2: _____</p>	
<p>f. Who operates and maintains the gage(s)? Write "N/A" for Gage 2 if one gage is available. Gage 1: _____ Gage 2: _____</p>	
<p>g. Is each available stream gage operated and maintained by USGS or DNRC?</p>	<input type="checkbox"/> Y <input type="checkbox"/> N
<p>i. If yes, skip to question 152.h.</p>	
<p>ii. If no, answer the following questions for each gage not operated and maintained by USGS or DNRC.</p>	
<p>1. How frequently are stage data recorded? Write "N/A" for Gage 2 if only one gage is not operated or maintained by USGS. Gage 1: _____ Gage 2: _____</p>	
<p>2. If data gaps were to occur, are they identified and left unfilled or estimated using interpolation, ice correction, or indirect discharge measurements methods?</p>	<input type="checkbox"/> Y <input type="checkbox"/> N
<p>a. Gage 1.</p>	<input type="checkbox"/> Y <input type="checkbox"/> N
<p>b. Gage 2. Write "N/A" on the line instead of answering yes or no, if only one gage is not operated or maintained by USGS or DNRC. _____</p>	<input type="checkbox"/> Y <input type="checkbox"/> N



3. Was the rating curve established and maintained throughout the duration of the period of record using measurements taken near the reference gage and stage recorder according to USGS protocols?	<input type="checkbox"/> Y <input type="checkbox"/> N
a. Gage 1.	<input type="checkbox"/> Y <input type="checkbox"/> N
b. Gage 2. Write "N/A" on the line instead of answering yes or no, if only one gage is not operated or maintained by USGS or DNRC. _____	<input type="checkbox"/> Y <input type="checkbox"/> N
4. Were there requirements for maintaining a permanent gage datum and meeting specified accuracy limits?	<input type="checkbox"/> Y <input type="checkbox"/> N
a. Gage 1.	<input type="checkbox"/> Y <input type="checkbox"/> N
b. Gage 2. Write "N/A" on the line instead of answering yes or no, if only one gage is not operated or maintained by USGS or DNRC. _____	<input type="checkbox"/> Y <input type="checkbox"/> N
h. Do the data for one or more available stream gages meet the Department's standard to be sufficient to calculate the median of the mean monthly flow rate and volume during the months when return flows accrue?	<input type="checkbox"/> Y <input type="checkbox"/> N
i. If yes, record how many meet the standard, then skip to question 155 because this section is complete. _____	
ii. If no, answer question 153.	
153. If no gage data are available or if available gage data do not meet the Department's standard to be sufficient to calculate the median of the mean monthly flow rate and volume during the months when return flows accrue, is the source otherwise measured?	<input type="checkbox"/> Y <input type="checkbox"/> N
a. If no, measurements may be necessary. The Department cannot deem the preapplication meeting form adequately completed until the Department receives gage data and/or measurements that meet the Department's measurement standards or, in combination with an approved request to deviate from the Department's standards, are sufficient to complete any necessary technical analyses or scientific credibility reviews and to evaluate the applicable criteria. Skip to question 154.	
b. If yes,	
i. Submit measurements to the Department.	<input type="checkbox"/> S
ii. Who collected the measurements? _____	<input type="checkbox"/> A



iii. With what method were the data collected? _____ _____	<input type="checkbox"/> A
iv. What is the period of record? _____	
v. What is the frequency of measurement? _____	
vi. Are there gaps in the data?	<input type="checkbox"/> Y <input type="checkbox"/> N
1. If yes, what is the nature of the gaps and how are gaps handled to ensure data quality? _____ _____	<input type="checkbox"/> A
vii. Is there a process for maintaining the data and meeting specified accuracy limits?	<input type="checkbox"/> Y <input type="checkbox"/> N
1. If yes, explain. _____ _____	
viii. Do available measurement data meet the Department's standard to be sufficient to calculate the median of the mean monthly flow rate and volume during the months when return flows accrue?	<input type="checkbox"/> Y <input type="checkbox"/> N
1. If yes, this section is complete. Skip to question 155.	
2. If no, answer question 154.	
154. Do the available measurement data, gage and/or otherwise measured, meet the Department's standard of including a minimum of high, moderate, and low flows to be sufficient to use for calibration of a Department-accepted estimation technique?	<input type="checkbox"/> Y <input type="checkbox"/> N
a. If yes,	
i. Describe how the measurements are representative of high, moderate, and low flows. _____ _____ _____	<input type="checkbox"/> A



<p>ii. Describe the estimation technique.</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>	<input type="checkbox"/> A
<p>b. If no, but a Department-accepted estimation technique will be appropriate for the source receiving return flows:</p>	
<p>i. Will measurements be collected prior to submission of a completed Form 606P-B that meet the Department's standard of including a minimum of high, moderate, and low flows to be sufficient to use for calibration of a Department-accepted estimation technique?</p>	<input type="checkbox"/> Y <input type="checkbox"/> N
<p>1. If yes,</p>	
<p>a. With what method will the data be collected?</p> <p>_____</p> <p>_____</p>	<input type="checkbox"/> A
<p>b. What will be the interval of measurement?</p> <p>_____</p>	
<p>c. Describe the proposed estimation technique.</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>	A
<p>2. If no, do you plan on requesting to deviate from the Department's standard of including a minimum of high, moderate, and low flows to be sufficient to use for calibration of a Department-accepted estimation technique? Neither the Department's technical analyses nor scientific credibility review of your technical analyses can commence until the Department receives measurements that meet Department measurement standards, or in combination with an approved request for variance from these standards, are sufficient to complete any necessary technical analyses or scientific credibility reviews and to evaluate the applicable criteria.</p>	<input type="checkbox"/> Y <input type="checkbox"/> N



c. If no, because no Department-accepted estimation technique will be appropriate for the source receiving return flows:	
i. Describe why no Department-accepted estimation technique is appropriate for the source characteristics. _____ _____ _____	<input type="checkbox"/> A
ii. Do the available measurement data, gage and/or otherwise measured, meet the Department's standard for monthly measurements throughout the months when return flows accrue?	<input type="checkbox"/> Y <input type="checkbox"/> N
1. If no, will measurements be collected prior to submission of a completed Form 606P that meet the Department's standard of monthly measurements throughout the months when return flows accrue?	<input type="checkbox"/> Y <input type="checkbox"/> N
a. If yes, with what method will the data be collected? _____ _____	<input type="checkbox"/> A
b. If no, do you plan on requesting a variance to deviate from the Department's standard for monthly measurements throughout the months when return flows accrue? The Department's technical analyses or scientific credibility review of your technical analyses cannot commence until the Department receives measurements that meet Department measurement standards, or in combination with a request for a variance from these standards are sufficient to complete any necessary technical analyses or scientific credibility reviews and to evaluate the applicable criteria.	<input type="checkbox"/> Y <input type="checkbox"/> N
155. If you went straight to this section when referenced, go back to question 65 for surface water changes and question 93 for groundwater changes. If you waited to answer in consecutive order and have completed all prior sections, move to question 156.	

Adverse Effect: Evaluation of Impacts to Identified Water Rights for Surface Water Depletion Analysis

156. Respond to questions in this section if you elected in question 84 to answer optional questions 157 to 161. Answer one time for each hydraulically connected source. Use "Additional Hydraulically Connected Source (606P)" sheet if there is more than one source. If you did not elect to answer these questions or answered these questions earlier in the preapplication meeting, this section is complete; skip to question 162.	
--	--



157. What is the surface water source for which you are answering questions 158 to 161? _____	
158. Are stream gage data available?	<input type="checkbox"/> Y <input type="checkbox"/> N
a. If yes, answer question 159.	
b. If no, answer question 160.	
159. Stream gage data are available	
a. Is one stream gage located above and one stream gage located below the point of net depletion accumulation?	<input type="checkbox"/> Y <input type="checkbox"/> N
i. If no, is only one stream gage located near the point of net depletion accumulation?	<input type="checkbox"/> Y <input type="checkbox"/> N
1. If yes, is the stream gage upstream or downstream? _____	
b. List the gage name(s). Write "N/A" for Gage 2 if one gage available. Gage 1: _____ Gage 2: _____	
c. What is the distance between the gage(s) and the point of net depletion accumulation? Write "N/A" for Gage 2 if one gage available. Gage 1: _____ Gage 2: _____	
d. Is there a limiting or controlling factor on the source between the stream gage(s) and the point where net depletions accrue? This includes dams that control the flow and streams with large gaining and/or losing reaches.	<input type="checkbox"/> Y <input type="checkbox"/> N
i. If yes, explain. _____ _____	<input type="checkbox"/> A
e. How long is the period of record? Write "N/A" for Gage 2 if one gage is available. Gage 1: _____ Gage 2: _____	



f. Who operates and maintains the gage(s)? Write "N/A" for Gage 2 if one gage is available. Gage 1: _____ Gage 2: _____	
g. Is each available stream gage operated and maintained by USGS or DNRC?	<input type="checkbox"/> Y <input type="checkbox"/> N
i. If yes, skip to question 159.h.	
ii. If no, answer the following questions for each gage not operated and maintained by USGS or DNRC.	
1. How frequently are stage data recorded? Write "N/A" for Gage 2 if only one gage is not operated or maintained by USGS. Gage 1: _____ Gage 2: _____	
2. If data gaps were to occur, are they identified and left unfilled or estimated using interpolation, ice correction, or indirect discharge measurements methods?	<input type="checkbox"/> Y <input type="checkbox"/> N
a. Gage 1.	<input type="checkbox"/> Y <input type="checkbox"/> N
b. Gage 2. Write "N/A" on the line instead of answering yes or no, if only one gage is not operated or maintained by USGS or DNRC. _____	<input type="checkbox"/> Y <input type="checkbox"/> N
3. Was the rating curve established and maintained throughout the duration of the period of record using measurements taken near the reference gage and stage recorder according to USGS protocols?	<input type="checkbox"/> Y <input type="checkbox"/> N
a. Gage 1.	<input type="checkbox"/> Y <input type="checkbox"/> N
b. Gage 2. Write "N/A" on the line instead of answering yes or no, if only one gage is not operated or maintained by USGS or DNRC. _____	<input type="checkbox"/> Y <input type="checkbox"/> N
4. Were there requirements for maintaining a permanent gage datum and meeting specified accuracy limits?	<input type="checkbox"/> Y <input type="checkbox"/> N
a. Gage 1.	<input type="checkbox"/> Y <input type="checkbox"/> N
b. Gage 2. Write "N/A" on the line instead of answering yes or no, if only one gage is not operated or maintained by USGS or DNRC. _____	<input type="checkbox"/> Y <input type="checkbox"/> N



h. Do the data for one or more available stream gages meet the Department's standard to be sufficient to calculate the median of the mean monthly flow rate and volume during the months with net depletions?	<input type="checkbox"/> Y <input type="checkbox"/> N
i. If yes, record how many meet the standard, then skip to question 162 because this section is complete. _____	
ii. If no, answer question 160.	
160. If no gage data are available or if available gage data do not meet the Department's standard to be sufficient to calculate the median of the mean monthly flow rate and volume during the months with net depletions, is the source otherwise measured?	<input type="checkbox"/> Y <input type="checkbox"/> N
a. If no, measurements may be necessary. The Department cannot deem the preapplication meeting form adequately completed until the Department receives gage data and/or measurements that meet the Department's measurement standards or, in combination with an approved request to deviate from the Department's standards, are sufficient to complete any necessary technical analyses or scientific credibility reviews and to evaluate the applicable criteria. Skip to question 161.	
b. If yes,	
i. Submit measurements to the Department.	<input type="checkbox"/> S
ii. Who collected the measurements? _____	<input type="checkbox"/> A
iii. With what method were the data collected? _____ _____	<input type="checkbox"/> A
iv. What is the period of record? _____	
v. What is the frequency of measurement? _____	
vi. Are there gaps in the data?	<input type="checkbox"/> Y <input type="checkbox"/> N
1. If yes, what is the nature of the gaps and how are gaps handled to ensure data quality? _____ _____	<input type="checkbox"/> A



vii. Is there a process for maintaining the data and meeting specified accuracy limits?	<input type="checkbox"/> Y <input type="checkbox"/> N
1. If yes, explain. _____ _____	
viii. Do available measurement data meet the Department's standard to be sufficient to calculate the median of the mean monthly flow rate and volume during the months with net depletions?	<input type="checkbox"/> Y <input type="checkbox"/> N
1. If yes, this section is complete. Skip to question 162.	
2. If no, answer question 161.	
161. Do the available measurement data, gage and/or otherwise measured, meet the Department's standard of including a minimum of high, moderate, and low flows to be sufficient to use for calibration of a Department-accepted estimation technique?	<input type="checkbox"/> Y <input type="checkbox"/> N
a. If yes,	
i. Describe how the measurements are representative of high, moderate, and low flows. _____ _____ _____	<input type="checkbox"/> A
ii. Describe the estimation technique. _____ _____ _____ _____	<input type="checkbox"/> A
b. If no, but a Department-accepted estimation technique will be appropriate for the hydraulically connected source:	
i. Will measurements be collected prior to submission of a completed Form 606P-B that meet the Department's standard of including a minimum of high, moderate, and low flows to be sufficient to use for calibration of a Department-accepted estimation technique?	<input type="checkbox"/> Y <input type="checkbox"/> N
1. If yes,	
a. With what method will the data be collected? _____ _____	<input type="checkbox"/> A



<p>b. What will be the interval of measurement?</p> <p>_____</p>	
<p>c. Describe the proposed estimation technique.</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>	<input type="checkbox"/> A
<p>2. If no, do you plan on requesting to deviate from the Department's standard of including a minimum of high, moderate, and low flows to be sufficient to use for calibration of a Department-accepted estimation technique? The Department's technical analyses or scientific credibility review of your technical analyses cannot commence until the Department receives measurements that meet Department measurement standards, or in combination with a request to deviate, are sufficient to complete any necessary technical analyses or scientific credibility reviews and to evaluate the applicable criteria.</p>	<input type="checkbox"/> Y <input type="checkbox"/> N
<p>c. If no, because no Department-accepted estimation technique will be appropriate for the hydraulically connected source:</p>	
<p>i. Describe why no Department-accepted estimation technique is appropriate for the source characteristics.</p> <p>_____</p> <p>_____</p> <p>_____</p>	<input type="checkbox"/> A
<p>ii. Do the available measurement data, gage and/or otherwise measured, meet the Department's standard for monthly measurements throughout the months with net depletions?</p>	<input type="checkbox"/> Y <input type="checkbox"/> N
<p>1. If no, will measurements be collected prior to submission of a completed Form 606P that meet the Department's standard of monthly measurements throughout the months with net depletions?</p>	<input type="checkbox"/> Y <input type="checkbox"/> N
<p>a. If yes, with what method will the data be collected?</p> <p>_____</p> <p>_____</p>	<input type="checkbox"/> A



<p>b. If no, do you plan on requesting to deviate from the Department's standard for monthly measurements throughout the months with net depletions? The Department's technical analyses or scientific credibility review of your technical analyses cannot commence until the Department receives measurements that meet Department measurement standards, or in combination with a to deviate, are sufficient to complete any necessary technical analyses or scientific credibility reviews and to evaluate the applicable criteria.</p>	<input type="checkbox"/> Y <input type="checkbox"/> N
<p>162. If you went straight to this section when referenced, go back to question 84. If you waited to answer in consecutive order and have completed all prior sections, move to question 163.</p>	

Adequate Means of Diversion and Operation

<p>163. Submit a diagram of how you will operate your system from the point of diversion to the place of use.</p>	<input type="checkbox"/> S
<p>164. Describe specific information about the capacity of the diversionary structure(s). This may include, where applicable: pump curves and total dynamic head calculations, headgate design specifications, and dike or dam height and length.</p> <p>_____</p> <p>_____</p> <p>_____</p>	<input type="checkbox"/> A
<p>165. Describe the size, materials, capacity, and configuration of infrastructure to convey water from point of diversion to place of use.</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>	<input type="checkbox"/> A
<p>166. Does the proposed conveyance require easements?</p>	<input type="checkbox"/> Y <input type="checkbox"/> N
<p>a. If yes, explain.</p> <p>_____</p> <p>_____</p>	<input type="checkbox"/> A
<p>167. Do you propose to add a point of diversion?</p>	<input type="checkbox"/> Y <input type="checkbox"/> N
<p>a. If yes, do you own the land where all proposed points of diversion are located?</p>	<input type="checkbox"/> Y <input type="checkbox"/> N
<p>i. If no, documentation to show you have the right to use all points of diversion located on each property you do not own will be required upon application submittal. This may include, but is not limited to, a well agreement, an easement, or permission of the party that owns the property where the proposed point(s) of diversion are located.</p>	



<p>168. Describe your plan of operations, including specific information about how water is delivered within the place of use. This may include, where applicable, the range of flow rates needed for a pivot.</p> <p>_____</p> <p>_____</p> <p>_____</p>	<input type="checkbox"/> A
<p>169. Do you have any plans to measure your diversion and use?</p>	<input type="checkbox"/> Y <input type="checkbox"/> N
<p>a. If yes, describe the plan and the type of measurements you will take.</p> <p>_____</p> <p>_____</p>	<input type="checkbox"/> A

Beneficial Use

<p>170. Does the Department have a standard for any of the purposes for which water is used? Department standards can be found in ARM 36.12.112 and ARM 36.12.115.</p>	<input type="checkbox"/> Y <input type="checkbox"/> N
<p>a. If yes, list the purposes for which the Department has a standard and note whether the water use falls within or outside the standard.</p> <p>_____</p> <p>_____</p>	
<p>171. If no standard exists for any proposed purpose or if any proposed purpose falls outside of Department standards, explain how the use is reasonable for that purpose.</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>	<input type="checkbox"/> A
<p>172. Will your proposed project be subject to DEQ requirements for a public water supply (PWS) system or Certificate of Subdivision Approval (COSA)?</p>	<input type="checkbox"/> Y <input type="checkbox"/> N
<p>a. If yes, have you researched or consulted with DEQ regarding those requirements?</p>	<input type="checkbox"/> Y <input type="checkbox"/> N
<p>173. Are you proposing to use surface water for in-house domestic use?</p>	<input type="checkbox"/> Y <input type="checkbox"/> N
<p>a. If yes, does a COSA exist for the proposed place of use?</p>	<input type="checkbox"/> Y <input type="checkbox"/> N
<p>i. If yes, please submit the COSA.</p>	<input type="checkbox"/> S
<p>ii. If no, have you researched or consulted with DEQ regarding their requirements?</p>	<input type="checkbox"/> Y <input type="checkbox"/> N



Possessory Interest

<p>174. Do you meet one of the exceptions to possessory interest requirements, pursuant to ARM 36.12.1802? Exceptions include cases 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.</p>	<input type="checkbox"/> Y <input type="checkbox"/> N
<p>a. If yes, explain.</p> <p>_____</p> <p>_____</p> <p>_____</p>	<input type="checkbox"/> A
<p>b. If no, do you own all proposed places of use?</p>	<input type="checkbox"/> Y <input type="checkbox"/> N
<p>i. If no, explain. Documentation that shows you either have possessory interest or written permission of the parties with possessory interest of the place of use will be required at application submittal.</p> <p>_____</p> <p>_____</p> <p>_____</p>	<input type="checkbox"/> A

Non-Mandatory Project-Specific Questions

Change in Place of Storage

<p>175. Does the project include one or more places of storage? If yes, answer questions 176 to 178 for each individual place of storage (use "Additional Place of Storage (606P)" sheet for additional places of storage). A Change Storage Addendum (606-SA) will be required at application submittal. If no, this section is complete; skip to question 179.</p>	
<p>176. Are preliminary designs available? Preliminary designs will be required at application submittal.</p>	<input type="checkbox"/> Y <input type="checkbox"/> N
<p>a. If yes, submit preliminary designs.</p>	<input type="checkbox"/> S
<p>177. Will a drainage device be installed?</p>	<input type="checkbox"/> Y <input type="checkbox"/> N
<p>178. Is the place of storage capacity calculated to be greater than 50 acre-feet?</p>	<input type="checkbox"/> Y <input type="checkbox"/> N
<p>a. If yes, have you made an application to the DNRC Water Operations Bureau for a determination of whether the dam or reservoir is a high-hazard dam?</p>	<input type="checkbox"/> Y <input type="checkbox"/> N



179. If you are answering Project Specific Questions as they are referenced in Application Details, return to question 16 and if you are answering in consecutive order, go to question 180.	
--	--

Instream Flow Change

180. You may respond to the questions in this section if the project involves an instream flow purpose and you choose to answer the non-mandatory questions. Otherwise, this section is complete, skip to question 184.	
---	--

181. Does the protected reach begin at the existing point of diversion?	<input type="checkbox"/> Y <input type="checkbox"/> N
---	---

a. If no, does the protected reach begin upstream of or downstream from the existing point of diversion? _____	
---	--

182. Provide initial details about a streamflow measuring plan, which include the points where measurements occur, the interval of measurement, and the methods and equipment used. A complete streamflow measuring plan will be required for the application. _____ _____ _____ _____ _____	<input type="checkbox"/> A
---	----------------------------

183. Provide initial details about an operation plan, which may include the proposed protected flow rate (GPM or CFS), proposed protected volume (AF), and the proposed protected period. If you propose a trigger flow, please explain. A complete operation plan, based on the technical analyses, will be required for the application. _____ _____ _____ _____	<input type="checkbox"/> A
--	----------------------------

184. If you are answering Project Specific Questions as they are referenced in Application Details, return to question 27 and if you are answering in consecutive order, go to question 185.	
--	--



Mitigation, Aquifer Recharge, and Marketing for Mitigation

<p>185. You may respond to the questions in this section if the project involves mitigation, aquifer recharge, or marketing for mitigation, and you choose to answer the non-mandatory questions. Otherwise, this section is complete, skip to question 190. For mitigation water, answer questions 186, 187, and 188. For aquifer recharge water, answer questions 187 and 188. For marketing for mitigation/aquifer recharge, answer question 189.</p>	
<p>186. Do the water rights proposed for change to mitigation water have a period of use that is greater than or equal to the period when mitigation is necessary?</p>	<input type="checkbox"/> Y <input type="checkbox"/> N
<p>a. If no, how will mitigation water be made available during the entire period when mitigation is necessary?</p> <p>_____</p> <p>_____</p> <p>_____</p>	<input type="checkbox"/> A
<p>187. How do the priority dates of the water rights proposed for change compare to other water rights on the source?</p> <p>_____</p> <p>_____</p>	<input type="checkbox"/> A
<p>188. Do you have measurement records or Water Commissioner records that show the reliability of the water rights proposed for change to a mitigation water or aquifer recharge purpose?</p>	<input type="checkbox"/> Y <input type="checkbox"/> N
<p>a. If yes, submit them to the Department.</p>	<input type="checkbox"/> S
<p>189. Describe the need for marketing for mitigation/aquifer recharge.</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>	<input type="checkbox"/> A
<p>190. If you are answering Project Specific Questions as they are referenced in Application Details, return to question 25 and if you are answering in consecutive order, go to question 191.</p>	

Water Marketing

<p>191. You may respond to the questions in this section if the project includes the water marketing purpose, and you choose to answer the non-mandatory questions. This does not include marketing for mitigation. Otherwise, this section is complete, skip to question 195.</p>	<input type="checkbox"/> Y <input type="checkbox"/> N
--	---



<p>192. How will you control or limit access to the water?</p> <p>_____</p> <p>_____</p>	<input type="checkbox"/> A
<p>193. Do you have contracts for the entire volume and flow rate sought?</p>	<input type="checkbox"/> Y <input type="checkbox"/> N
<p>194. Submit a service area map. Create map on an aerial photograph or topographic map and show the following: general service area boundary, section corners, township and range, scale bar, and north arrow.</p>	<input type="checkbox"/> S
<p>195. If you are answering Project Specific Questions as they are referenced in Application Details, return to question 26 and if you are answering in consecutive order, go to Follow-Up section.</p>	



PREAPPLICATION MEETING AFFIDAVIT & CERTIFICATION

"We attest that the information on this form accurately describes the proposed project discussed during the preapplication meeting and that the items marked for follow-up will require the applicant to provide additional information before the form is deemed complete."

"Applicant acknowledges that any information provided by the Department during the preapplication meeting is preliminary and subject to change."

"Applicant acknowledges that if the follow-up information provided to the Department substantially changes the proposed project, for example in a way that alters which sections of the form are applicable or which technical analyses are required, or who is to complete the technical analyses, the applicant will need to schedule a new preapplication meeting so that the Department can identify any additional information necessary for completion of the technical analyses (ARM 36.12.1302(3)(c))."

Upon Department receipt of the completed form (within 180 days following the meeting), the Department reserves five business days to return the form to the applicant if:

- 1 – the completed form does not include all necessary follow-up information identified in the meeting, OR
- 2 – the completed form is not adequate for the Department to proceed with technical analyses, OR
- 3 – the applicant has elected to complete technical analyses and has not submitted each piece of technical analysis required, OR
- 4 – the applicant has substantially changed the details of the proposed project, such as in a way that alters which sections of the form are applicable, which technical analyses are required, or who is to complete the technical analyses.

If the Department returns the form to the Applicant within these five days due to reasons 1-3 above, the Applicant can use the balance of their 180-day period in ARM 36.12.1302(4) or (5) to gather the remaining follow-up information needed. If there is no time remaining in the 180-day period, the Applicant can submit a written request for a new preapplication meeting, pursuant to ARM 36.12.1302(2). Even if there is still time remaining, the Applicant can choose to schedule a new preapplication meeting. The Department shall transfer the \$500 payment received to the new preapplication meeting, or refund the payment to the Applicant if the Applicant desires. If the Department returns the form to the Applicant within these five days due to reason (4) above, the Applicant must submit a written request for a new preapplication meeting, pursuant to ARM 36.12.1302(2). The Department shall transfer the \$500 payment received to the new preapplication meeting, or refund the payment to the Applicant if the Applicant desires.

Applicant Signature

Date

9-30-2025

Applicant Signature

Date

9-30-2025

Department Signature

Date



FORM 606P-A

PREAPPLICATION MEETING AFFIDAVIT & CERTIFICATION



APPLICATION TO CHANGE A WATER RIGHT
ADDITIONAL RETURN FLOW SOURCE SHEET (606P)
§ 85-2-402, MCA

Answer every question and applicable follow-up questions. Use the checkboxes to denote yes ("Y") or no ("N"). Questions that require items to be submitted to the Department have a submitted ("S") checkbox, which is marked when the required item is attached to the 606P-Preapplication Meeting Form: Part A. Constrain narrative responses to the specific question as is asked on the form; do not respond to multiple questions in one narrative. Responses in the form of a table may be entered into the table provided on this form or in an attachment. If an attachment is used, the table must have the exact headings found on this form, and the see attachment ("A") checkbox on this form must be marked. Label all units in narrative responses and tables. Label all attachments and submitted items with the question number.

Use one sheet per return flow source.

What additional return flow source is the sheet for (enter return flow source/ identifier)?

Assign a three-character identifier for the return flow source (for example, "YEL" or "TMC");

When referencing question numbers in attachments, submittals, follow-ups, and amended responses, use the following format:

- Question number - three-character identifier. For example, "152.d.i-YEL" or "152.d.i-TMC".

Table with 2 columns: Question text and response area. Row 1: 150. What is the surface water source for which you are answering questions 151 to 154? Row 2: 151. Are stream gage data available? Row 3: a. If yes, answer question 152. Row 4: b. If no, answer question 153.



152. Stream gage data are available	
a. Is one stream gage located above, and one stream gage located below the location where return flows accrue?	<input type="checkbox"/> Y <input type="checkbox"/> N
i. If no, is only one stream gage located near the location where return flows accrue?	<input type="checkbox"/> Y <input type="checkbox"/> N
1. If yes, is the stream gage upstream or downstream? _____	
b. List the gage name(s). Write "N/A" for Gage 2 if one gage available. Gage 1: _____ Gage 2: _____	
c. What is the distance between the gage(s) and the location where return flows accrue? Write "N/A" for Gage 2 if one gage available. Gage 1: _____ Gage 2: _____	
d. Is there a limiting or controlling factor on the source between the stream gage(s) and the location where return flows accrue? This includes dams that control the flow and streams with large gaining and/or losing reaches.	<input type="checkbox"/> Y <input type="checkbox"/> N
i. If yes, explain. _____ _____	<input type="checkbox"/> A
e. How long is the period of record? Write "N/A" for Gage 2 if one gage is available. Gage 1: _____ Gage 2: _____	
f. Who operates and maintains the gage(s)? Write "N/A" for Gage 2 if one gage is available. Gage 1: _____ Gage 2: _____	
g. Is each available stream gage operated and maintained by USGS or DNRC?	<input type="checkbox"/> Y <input type="checkbox"/> N
i. If yes, skip to question 152.h.	
ii. If no, answer the following questions for each gage not operated and maintained by USGS or DNRC.	
1. How frequently are stage data recorded? Write "N/A" for Gage 2 if only one gage is not operated or maintained by USGS.	



Gage 1: _____ Gage 2: _____	
2. If data gaps were to occur, are they identified and left unfilled or estimated using interpolation, ice correction, or indirect discharge measurements methods?	<input type="checkbox"/> Y <input type="checkbox"/> N
a. Gage 1.	<input type="checkbox"/> Y <input type="checkbox"/> N
b. Gage 2. Write "N/A" on the line instead of answering yes or no, if only one gage is not operated or maintained by USGS or DNRC. _____	<input type="checkbox"/> Y <input type="checkbox"/> N
3. Was the rating curve established and maintained throughout the duration of the period of record using measurements taken near the reference gage and stage recorder according to USGS protocols?	<input type="checkbox"/> Y <input type="checkbox"/> N
a. Gage 1.	<input type="checkbox"/> Y <input type="checkbox"/> N
b. Gage 2. Write "N/A" on the line instead of answering yes or no, if only one gage is not operated or maintained by USGS or DNRC. _____	<input type="checkbox"/> Y <input type="checkbox"/> N
4. Were there requirements for maintaining a permanent gage datum and meeting specified accuracy limits?	<input type="checkbox"/> Y <input type="checkbox"/> N
a. Gage 1.	<input type="checkbox"/> Y <input type="checkbox"/> N
b. Gage 2. Write "N/A" on the line instead of answering yes or no, if only one gage is not operated or maintained by USGS or DNRC. _____	<input type="checkbox"/> Y <input type="checkbox"/> N
h. Do the data for one or more available stream gages meet the Department's standard to be sufficient to calculate the median of the mean monthly flow rate and volume during the months when return flows accrue?	<input type="checkbox"/> Y <input type="checkbox"/> N
i. If yes, record how many meet the standard, then this section is complete. _____	
ii. If no, answer question 153.	
153. If no gage data are available or if available gage data do not meet the Department's standard to be sufficient to calculate the median of the mean monthly flow rate and volume during the months when return flows accrue, is the source otherwise measured?	<input type="checkbox"/> Y <input type="checkbox"/> N
a. If no, measurements may be necessary. The Department cannot deem the preapplication meeting form adequately completed until the Department receives gage data and/or measurements that meet the Department's measurement standards or, in combination with an approved request to deviate from the	



Department's standards, are sufficient to complete any necessary technical analyses or scientific credibility reviews and to evaluate the applicable criteria. Skip to question 154.	
b. If yes,	
i. Submit measurements to the Department.	<input type="checkbox"/> S
ii. Who collected the measurements? _____	<input type="checkbox"/> A
iii. With what method were the data collected? _____ _____	<input type="checkbox"/> A
iv. What is the period of record? _____	
v. What is the frequency of measurement? _____	
vi. Are there gaps in the data?	<input type="checkbox"/> Y <input type="checkbox"/> N
1. If yes, what is the nature of the gaps and how are gaps handled to ensure data quality? _____ _____	<input type="checkbox"/> A
vii. Is there a process for maintaining the data and meeting specified accuracy limits?	<input type="checkbox"/> Y <input type="checkbox"/> N
1. If yes, explain. _____ _____	
viii. Do available measurement data meet the Department's standard to be sufficient to calculate the median of the mean monthly flow rate and volume during the months when return flows accrue?	<input type="checkbox"/> Y <input type="checkbox"/> N
1. If yes, this section is complete.	
2. If no, answer question 154.	
154. Do the available measurement data, gage and/or otherwise measured, meet the Department's standard of including a minimum of high, moderate, and low flows to be sufficient to use for calibration of a Department-accepted estimation technique?	<input type="checkbox"/> Y <input type="checkbox"/> N



a. If yes,	
i. Describe how the measurements are representative of high, moderate, and low flows. _____ _____ _____	<input type="checkbox"/> A
ii. Describe the estimation technique. _____ _____ _____ _____	<input type="checkbox"/> A
b. If no, but a Department-accepted estimation technique will be appropriate for the source receiving return flows:	
i. Will measurements be collected prior to submission of a completed Form 606P-B that meet the Department's standard of including a minimum of high, moderate, and low flows to be sufficient to use for calibration of a Department-accepted estimation technique?	<input type="checkbox"/> Y <input type="checkbox"/> N
1. If yes,	
a. With what method will the data be collected? _____ _____	<input type="checkbox"/> A
b. What will be the interval of measurement? _____	
c. Describe the proposed estimation technique. _____ _____ _____ _____	A



<p>2. If no, do you plan on requesting to deviate from the Department's standard of including a minimum of high, moderate, and low flows to be sufficient to use for calibration of a Department-accepted estimation technique? Neither the Department's technical analyses nor scientific credibility review of your technical analyses can commence until the Department receives measurements that meet Department measurement standards, or in combination with an approved request for variance from these standards, are sufficient to complete any necessary technical analyses or scientific credibility reviews and to evaluate the applicable criteria.</p>	<input type="checkbox"/> Y <input type="checkbox"/> N
<p>c. If no, because no Department-accepted estimation technique will be appropriate for the source receiving return flows:</p>	
<p>i. Describe why no Department-accepted estimation technique is appropriate for the source characteristics.</p> <p>_____</p> <p>_____</p> <p>_____</p>	<input type="checkbox"/> A
<p>ii. Do the available measurement data, gage and/or otherwise measured, meet the Department's standard for monthly measurements throughout the months when return flows accrue?</p>	<input type="checkbox"/> Y <input type="checkbox"/> N
<p>1. If no, will measurements be collected prior to submission of a completed Form 606P that meet the Department's standard of monthly measurements throughout the months when return flows accrue?</p>	<input type="checkbox"/> Y <input type="checkbox"/> N
<p>a. If yes, with what method will the data be collected?</p> <p>_____</p> <p>_____</p>	<input type="checkbox"/> A
<p>b. If no, do you plan on requesting a variance to deviate from the Department's standard for monthly measurements throughout the months when return flows accrue? The Department's technical analyses or scientific credibility review of your technical analyses cannot commence until the Department receives measurements that meet Department measurement standards, or in combination with a request for a variance from these standards are sufficient to complete any necessary technical analyses or scientific credibility reviews and to evaluate the applicable criteria.</p>	<input type="checkbox"/> Y <input type="checkbox"/> N





REQUEST FOR PREAPPLICATION MEETING

ARM 36.12.1302(2)
(Revised 02/2025)

For Department Use Only

Instructions

Use this optional form to submit a written request for a preapplication meeting, as required in ARM 36.12.1302(2) for applicants electing to complete a preapplication meeting with the department prior to submitting an application for a beneficial water use permit or change in appropriation right pursuant to § 85-2-302, MCA. Use additional sheets as necessary.

Submit this form to the appropriate regional office; see contact information on the last page of this form.

Date Received _____
Received By _____
Scheduled Meeting Date _____

1. Applicant Name _____
Mailing Address _____
City _____ State _____ Zip _____
Home Phone _____ Other Phone _____
Email: _____

2. Representative Name (if other than Applicant) _____
 Representative is Consultant Representative is Attorney Representative is Other
Mailing Address _____
City _____ State _____ Zip _____
Home Phone _____ Other Phone _____
Email: _____

3. Are you requesting a preapplication meeting for a permit or change application?
 Permit Change

4. Describe your project:



5. Identify the following elements of the proposed permit or change in appropriation.

a) The flow rate and volume of water required:

Flow Rate _____ GPM CFS Volume _____ Acre-Feet

b) The point of diversion:

Point of Diversion #1 ____ 1/4 ____ 1/4 ____ 1/4 Section ____, Township ____ N S, Range ____ E W
County _____

Lot/Tract _____ Block _____ Subdivision Name _____

Point of Diversion #2 ____ 1/4 ____ 1/4 ____ 1/4 Section ____, Township ____ N S, Range ____ E W
County _____

Lot/Tract _____ Block _____ Subdivision Name _____

c) The place of use:

____ Acres ____ Lot ____ Block ____ 1/4 ____ 1/4 ____ 1/4 Sec ____, Twp ____ N S, Rge ____ E W
 ____ Acres ____ Lot ____ Block ____ 1/4 ____ 1/4 ____ 1/4 Sec ____, Twp ____ N S, Rge ____ E W
 ____ Acres ____ Lot ____ Block ____ 1/4 ____ 1/4 ____ 1/4 Sec ____, Twp ____ N S, Rge ____ E W
 ____ Acres ____ Lot ____ Block ____ 1/4 ____ 1/4 ____ 1/4 Sec ____, Twp ____ N S, Rge ____ E W
 ____ Acres ____ Lot ____ Block ____ 1/4 ____ 1/4 ____ 1/4 Sec ____, Twp ____ N S, Rge ____ E W

NW SE SW 12 15 N 22 W

d) The source of water: _____

e) The proposed purpose: _____

f) For a change in appropriation right, the water right(s) proposed for change:

Type of water right _____ Basin _____ Water Right # _____

Type of water right _____ Basin _____ Water Right # _____

Type of water right _____ Basin _____ Water Right # _____

Identify the water right elements proposed for change, with a checkmark for each water right proposed for change.

Water Right #					
Point of diversion	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Place of use	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Purpose of use	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Place of storage	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



g) For a change in appropriation right, an explanation of historical use of the right(s) proposed for change:

h) Any proposed place of storage, if applicable (only if storage capacity is greater than 0.1 acre-feet):

#1 Capacity: Surface Acres _____ x Max Depth (feet) _____ x (.4 for dams/.5 for pits) = _____ Acre-Feet

Location: ___ 1/4 ___ 1/4 ___ 1/4 Section ___, Township ___ N S, Range ___ E W

#2 Capacity: Surface Acres _____ x Max Depth (feet) _____ x (.4 for dams/.5 for pits) = _____ Acre-Feet

Location: ___ 1/4 ___ 1/4 ___ 1/4 Section ___, Township ___ N S, Range ___ E W

#3 Capacity: Surface Acres _____ x Max Depth (feet) _____ x (.4 for dams/.5 for pits) = _____ Acre-Feet

Location: ___ 1/4 ___ 1/4 ___ 1/4 Section ___, Township ___ N S, Range ___ E W

i) For applications proposing a well or wells, the well depth(s) and location. If more than two wells, attach a separate sheet to this request:

Well #1 New Well Existing Well

For existing well, if available, Water Right # _____ GWIC ID _____

1/4 _____ 1/4 _____ 1/4 _____ Section _____, Township _____ N S, Range _____ E W

County _____

Lot/Tract _____ Block _____ Subdivision Name _____

Estimated Well Depth _____ Feet

Well #2 New Well Existing Well

For existing well, if available, Water Right # _____ GWIC ID _____

_____ 1/4 _____ 1/4 _____ 1/4 _____ Section _____, Township _____ N S, Range _____ E W

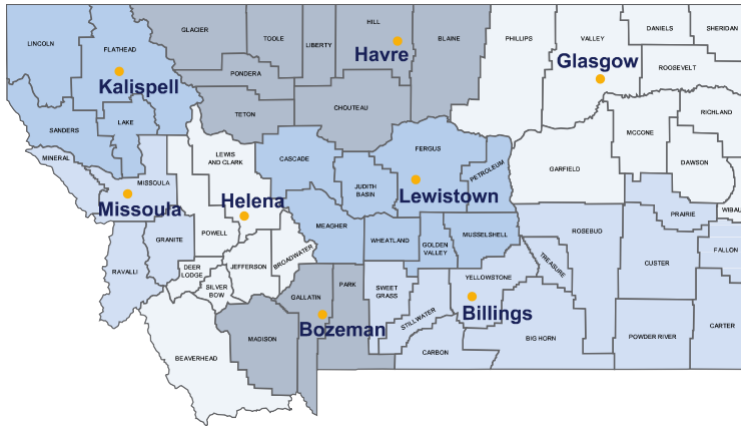
County _____

Lot/Tract _____ Block _____ Subdivision Name _____

Estimated Well Depth _____ Feet



WATER RESOURCES REGIONAL OFFICES



BILLINGS

Airport Industrial Park, 1371 Rimtop Dr
Billings, MT 59105-9702

PHONE 406-247-4415 FAX 406-247-4416
EMAIL DNRCBillingsWater@mt.gov

Big Horn, Carbon, Carter, Custer, Fallon, Powder River, Prairie, Rosebud, Stillwater, Sweet Grass, Treasure, and Yellowstone Counties



BOZEMAN

2273 Boot Hill Court, Suite 110
Bozeman, MT 59715-7249

PHONE 406-586-3136 FAX 406-587-9726
EMAIL DNRCBozemanWater@mt.gov

Gallatin, Madison, and Park Counties



GLASGOW

222 6th Street South, PO Box 1269
Glasgow, MT 59230-1269

PHONE 406-228-2561
EMAIL DNRCGlasgowWater@mt.gov

Daniels, Dawson, Garfield, McCone, Phillips, Richland, Roosevelt, Sheridan, Valley, and Wibaux Counties



HAVRE

210 6th Ave., PO Box 1828
Havre, MT 59501-1828

PHONE 406-265-5516
EMAIL DNRCHavreWater@mt.gov

Blaine, Chouteau, Glacier, Hill, Liberty, Pondera, Teton, and Toole Counties



HELENA

1424 9th Ave., PO Box 201601,
Helena, MT 59620-1601

PHONE 406-444-6999 FAX 406-444-9317
EMAIL DNRCHelenaWater@mt.gov

Beaverhead, Broadwater, Deer Lodge, Jefferson, Lewis and Clark, Powell, and Silver Bow Counties



KALISPELL

655 Timberwolf Parkway, Suite 4
Kalispell, MT 59901-1215

PHONE 406-752-2288
EMAIL DNRCKalispellWater@mt.gov

Flathead, Lake, Lincoln, and Sanders Counties



LEWISTOWN

613 Northeast Main St., Suite E
Lewistown, MT 59457-2020

PHONE 406-538-7459
EMAIL DNRCLeWistownWater@mt.gov

Cascade, Fergus, Golden Valley, Judith Basin, Meagher, Musselshell, Petroleum, and Wheatland Counties



MISSOULA

2705 Spurgin Rd. Bldg. C, PO Box 5004
Missoula, MT 59806-5004

PHONE 406-721-4284 FAX 406-542-5899
EMAIL DNRCMissoulaWater@mt.gov

Granite, Mineral, Missoula, and Ravalli Counties

