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

NOTICE AREA

Application No. **42KJ 30164394 and 42KJ 30165338** Regional Office **# 3**

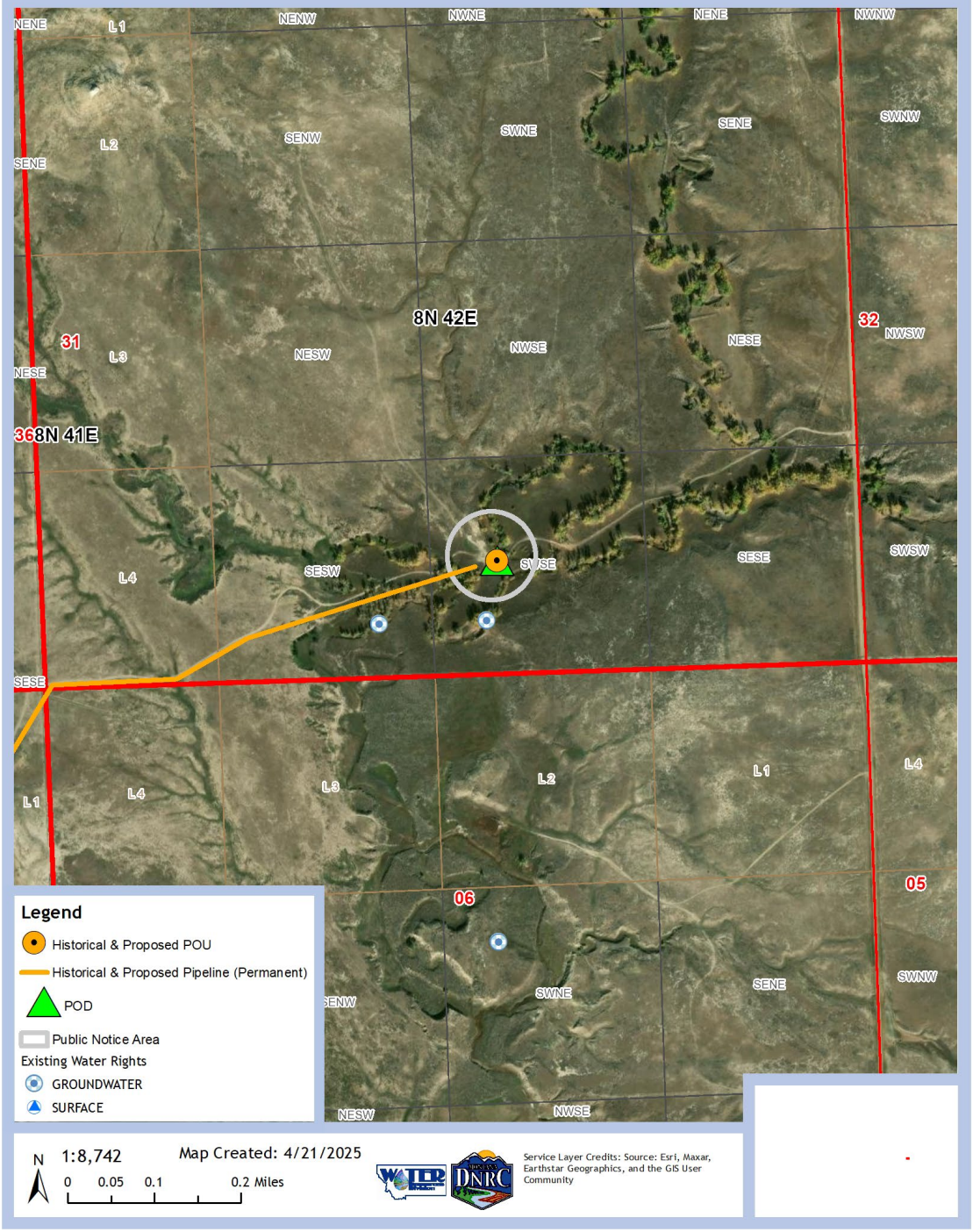
Applicant's Name **Patricia & Steven Thoeny**

Indian Reservation ☐ Yes ☒ No If yes, Reservation _____

Irrigation District ☐ Yes ☒ No If yes, District _____

Specialist **Veronica Corbett** Date **4/21/2025**

Public Notice Area for 42KJ 30164394 and 42KJ 30165338



Water Right Owner	Water Right # (Basin, ID, and Number)
Applicants: Patricia & Steven Thoeny	
Standards	
1BIA	
1BOR	
1CRP	
1DOI	
1DSL	
1FWP	
1FWS	
1NWE	
1PPL	
1TUL	
1USF	
2FWP	
3BLG	
3FP19	
3NPR	
3RCD	

**If owner listed twice, only one notice sent*

PUBLISHED: Forsyth Independent Press

REMARKS: The public notice area or area of potential adverse effect is only the Applicant's point of diversion in the SWSE Sec. 31, T8N, R42E because the proposed project does not increase the diverted or consumed volume of the water right and does not change the point of diversion, so no existing water rights will be adversely affected.

IMPORTANT INFORMATION: Application to Change Water Right Nos. 42KJ 30164394 and 42KJ 30165338 are separate application numbers for the temporary (42KJ 30165338) and permanent (42KJ 30164394) portions of one proposed water right change. Both applications will be noticed concurrently. If authorized, Change Application No. 42KJ 30165338 will be authorized until February 28, 2027, coinciding with State Agricultural and Grazing Lease No. 2063, for places of use on land owned by the State of Montana and managed by DNRC Trust Land Management Division, and owned privately owned by the Applicant. Should temporary Change Application No. 42KJ 30165338 not be renewed or is otherwise terminated, the place of use will be the permanent locations owned by the Applicant, not on DNRC Trust Lands, as described in Change Application No. 42KJ 30164394.

Legal land description of notice area:
SWSE Sec 31 T8N R42E

Draft Preliminary Determinations

- Draft PD
- Draft PD cover letter
- Updated Draft PD
- Updated Draft PD cover letter
- Any correspondence with the applicant regarding the draft PDs

Draft Preliminary Determinations

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

* * * * * * *

APPLICATIONS TO CHANGE WATER RIGHT NOS. 42KJ 30164394 AND 42KJ 30165338 BY STEVEN & PATRICIA THOENY	)))	**DRAFT PRELIMINARY DETERMINATION TO GRANT CHANGES**

* * * * * * *

On September 3, 2024, Steven & Patricia Thoeny (Applicants) submitted Application to Change Water Right No. 42KJ 30164394 to change Groundwater Certificate 42KJ 30115997 to the Billings Regional Office of the Department of Natural Resources and Conservation (Department or DNRC). The Department published receipt of the application on its website. The Application was first determined to be correct and complete as of October 16, 2024. On January 29, 2025, the Applicants submitted a request to modify the application pursuant to ARM 36.12.1401, which reset application timelines. Change Application No. 42KJ 30165338 was created for the temporary portion of the change application. The Department published receipt of this application on its website. Following the resetting of timelines, the amended Change Application No. 42KJ 30164394 and new Change Application No. 42KJ 30165338 were determined to be correct and complete as of March 28, 2025. An Environmental Assessment for both applications was completed on April 4, 2025.

INFORMATION

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

Application as filed:

- Application for Change of Appropriation Water Right, Additional Stock Tanks, Form 606-ST
- Attachments:
    - Montana Sage Grouse Habitat Conservation Program consultation letter, dated May 2, 2024

  - Montana DNRC Trust Lands Management Division Authorization for Temporary Change in Appropriation Right Consent Form, for State Agricultural and Grazing Lease No. 2063, dated July 28, 2024
- Maps:
  - 2011 topographic map showing the existing place of use and point of diversion, and proposed place of use for Groundwater Certificate 42KJ 30115997, made July 29, 2024
  - 2011 topographic map with existing place of use and point of diversion, and proposed place of use and means of conveyance for Groundwater Certificate 42KJ 30115997 drawn on, made July 29, 2024
  - Undated aerial imagery overlayed with proposed place of use and means of conveyance on State Trust Lands Management Division section, made April 18, 2024
- Department-completed Technical Analyses based on information provided in the Form 606-ST Change Application, dated April 18, 2025

Information Received after Application Filed

- Application Amendment Form 655, received January 29, 2025
  - Undated topographic map overlayed with the additional proposed places of use and means of conveyance created by NRCS, made January 29, 2025

Information within the Department's Possession/Knowledge

- Water right file for Groundwater Certificate 42KJ 30115997
- DNRC water rights database
- DNRC change manual

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; AC means acres; and AF/YR means acre-feet per year.

WATER RIGHTS TO BE CHANGED

FINDINGS OF FACT

1. The Applicants propose two changes to Groundwater Certificate 42KJ 30115997. Change Application No. 42KJ 30164394 is a permanent change to the place of use to include five (5) new tanks. Change Application No. 42KJ 30165338 is a temporary change to the place of use to include the five (5) permanent tanks and two (2) temporary tanks on land owned by the State of Montana and managed by DNRC School Trust Lands Management Division (TLMD). Because two (2) of the places of use are temporary and will expire, while the five (5) others are permanent, two applications were created. Both the temporary and permanent changes were described together in the Technical Analyses document and will be described together in this preliminary determination.

2. Groundwater Certificate 42KJ 30115997 was filed for 30 GPM and 8.5 AF diverted volume for stock use. The project is in Rosebud County and the source is groundwater. The point of diversion is a groundwater well in the SWSWSE Sec. 31, T8N, R42E. The historical place of use includes three stock tanks located in the SWSWSE Sec. 31, T8N, R42E; NWSENE Sec. 1, T7N, R41E; and Gov't Lot 3 (SWNESW), Sec. 1, T7N, R41E, connected by a pipeline system.

Table 1: Water Right Proposed for Change

WR Number	Purpose	Flow Rate	Volume	Period of Use	Point of Diversion	Place of Use	Priority Date
42KJ 30115997	Stock	30 GPM	8.5 AF	Jan 1 – Dec 31	SWSWSE Sec. 31, T8N, R42E, Rosebud County	See Table 2	01/29/2018

Table 2: Historical Place of Use of Water Right Proposed for Change

Gov't Lot	Quarter Sections	Section	Township	Range	County
	SWSWSE	31	8N	42E	Rosebud
	NWSENE	1	7N	41E	Rosebud
3	SWNENW	1	7N	41E	Rosebud

3. Statement of Claim 42KJ 16907-00 and Statement of Claim 42KJ 108284-00 both overlap the historical place of use for Groundwater Certificate 42KJ 30115997 and are for the same purpose of stock. Statement of Claim 42KJ 16907-00 and Statement of Claim 42KJ 108284-00 are surface water rights for the same on-stream dam in the SENE Sec. 1, T7N, R41E, and are used to

service the same herd as Groundwater Certificate 42KJ 30115997. The source of the two claims is an unnamed tributary to Horse Creek which is ephemeral and unreliable. The herd will use the various sources as available to them. These water rights are not proposed for change.

4. Statement of Claim 42KJ 16909-00 is also an overlapping water right for a groundwater well with a purpose of stock. This well was abandoned and is no longer used. It was replaced by Groundwater Certificate 42KJ 30115997. Statement of Claim 42KJ 16909-00 is not proposed for change.

5. Statement of Claim 42KJ 16905-00 and Statement of Claim 42KJ 16906-00 both serve the same herd and generally overlap the proposed place of use in the NENENE Sec. 2, T7N, R41E for Change Application No. 42KJ 30164394 and 42KJ 30165338. Statement of Claim 42KJ 16905-00 is for a well with a purpose of stock and a period of use from May 1 to October 19. The Applicants do not use this well or water right because they range cattle all year round and do not want to be limited by the seasonal period of use. Statement of Claim 42KJ 16906-00 is a surface water right for an on-stream dam on an unnamed tributary of Horse Creek. The source is ephemeral and unreliable. The herd will use the various sources as available to them.

6. There are no previous change authorizations to this water right.

CHANGE PROPOSAL

FINDINGS OF FACT

7. The Applicants propose a temporary and permanent change to the place of use of Groundwater Certificate 42KJ 30115997. The Applicants propose to add five (5) new tanks through permanent Change Application No. 4KJ 30164394 for a total of eight (8) tank locations. The proposed permanent places of use for Change Application No. 42KJ 30164394 are the three (3) historical tanks (Table 2), and five (5) new tanks in the following: SENESW Sec. 1, T7N, R41E; Gov't Lot 2 (W2NWNE) Sec. 2, T7N, R41E; NENWSE Sec. 2, T7N, R41E; SWSENE Sec. 35, T8N, R41E; and SWNWSW Sec. 35, T8N, R41E. The places of use are described in Table 3 and shown in Figure 1.

Table 3: Proposed place of use for Change Application No. 42KJ 30164394

ID	Gov't Lot	Quarter Section	Section	Township	Range	County	Land Ownership
1		SWSWSE	31	8N	42E	Rosebud	Thoeny
2		NWSENE	1	7N	41E	Rosebud	Thoeny
3	3	SWNENW	1	7N	41E	Rosebud	Thoeny
4		SENESW	1	7N	41E	Rosebud	Thoeny
5	2	W2NWNE	2	7N	41E	Rosebud	Thoeny
6		NENWSE	2	7N	41E	Rosebud	Thoeny
7		SWSENE	35	8N	41E	Rosebud	Thoeny
8		SWNWSW	35	8N	41E	Rosebud	Thoeny

8. The Applicants propose to add seven (7) new tanks in temporary Change Application No. 4KJ 30165338 for a total of ten (10) tank locations. The proposed places of use for temporary Change Application No. 42KJ 30165338 are the three (3) historical tanks (Table 2), the five (5) permanent tanks in Change Application No. 42KJ 30164394 (Table 3), and two (2) temporary tanks located in the NWSESE and NESENW of Section 36, T8N, R41E. The places of use are described in Table 4 and shown in Figure 2.

Table 4: Proposed place of use for temporary Change Application No. 42KJ 30165338

ID	Gov't Lot	Quarter Section	Section	Township	Range	County	Land Ownership
1		SWSWSE	31	8N	42E	Rosebud	Thoeny
2		NWSENE	1	7N	41E	Rosebud	Thoeny
3	3	SWNENW	1	7N	41E	Rosebud	Thoeny
4		SENESW	1	7N	41E	Rosebud	Thoeny
5	2	W2NWNE	2	7N	41E	Rosebud	Thoeny
6		NENWSE	2	7N	41E	Rosebud	Thoeny
7		SWSENE	35	8N	41E	Rosebud	Thoeny
8		SWNWSW	35	8N	41E	Rosebud	Thoeny
9		NWSESE	36	8N	41E	Rosebud	State of Montana
10		NESENW	36	8N	41E	Rosebud	State of Montana

The temporary places of use are on land owned by the State of Montana and managed by DNRC TLMD. These places of use are being added through a temporary change in appropriation right to use the lessee's water right on school trust land for the duration of State Agricultural and Grazing Lease No. 2063 (State Lease AG-2063) pursuant to §§85-2-407 and -441, MCA. The temporary change will expire February 28, 2027, in conjunction with State Lease AG-2063. State Lease AG-2063 took effect March 1, 2017, for a term of 10 years, with an expiration date of

February 28, 2027. In the instance temporary Change Authorization 42KJ 30165338 is not renewed, expires, or is terminated, Groundwater Certificate 42KJ 30115997 will be used in accordance with the terms set forth in the change version established through Change Application No. 42KJ 30164394. There will be no changes to point of diversion, period of diversion, period of use, flow rate, volume, or purpose.

9. The five (5) additional tanks being permanently added through Change Application No. 42KJ 30164394 are included in the total seven (7) tanks as the proposed temporary place of use for Change Application No. 42KJ 30165338. If both changes are authorized, temporary Change Authorization No. 42KJ 30165338 will be the active version of the water right and the place of use for the temporary change is ten (10) tanks until such time the change authorization expires and Groundwater Certificate 42KJ 30115997 reverts to the three (3) historical tanks and five (5) permanent tanks authorized in Change Application No. 42KJ 30164394.

10. Should Change Application No. 42KJ 30165338 be authorized, the following condition will be added to the water right to satisfy the possessory interest criterion:

IN THE PRESENT CASE, THE APPLICANTS ARE THE OWNER OF GROUNDWATER CERTIFICATE 42KJ 30115997. THE APPLICANTS PROPOSE TO TAKE WATER DIVERTED FROM THE WELL LOCATED ON PRIVATE PROPERTY, AND TEMPORARILY USE IT FOR STOCK USE ON STATE TRUST LAND FOR THE DURATION OF AGRICULTURAL & GRAZING LEASE OF STATE LANDS AGREEMENT NO 2063. THE APPLICANTS OBTAINED WRITTEN CONSENT FROM THE DNRC TRUST LAND MANAGEMENT DIVISION TO TEMPORARILY USE GROUNDWATER CERTIFICATE 42KJ 30115997 ON THE STATE TRUST LAND FOR THE DURATION OF AGRICULTURAL & GRAZING LEASE OF STATE LANDS AGREEMENT NO. 2063. EXPIRATION OR TERMINATION OF AGRICULTURAL & GRAZING LEASE OF STATE LANDS AGREEMENT NO. 2063 WILL RESULT IN THE REVOCATION OF TEMPORARY CHANGE AUTHORIZATION 42KJ 30165338, AND GROUNDWATER CERTIFICATE 42KJ 30115997 WILL REVERT TO THE PREVIOUS ACTIVE CHANGE VERSION.

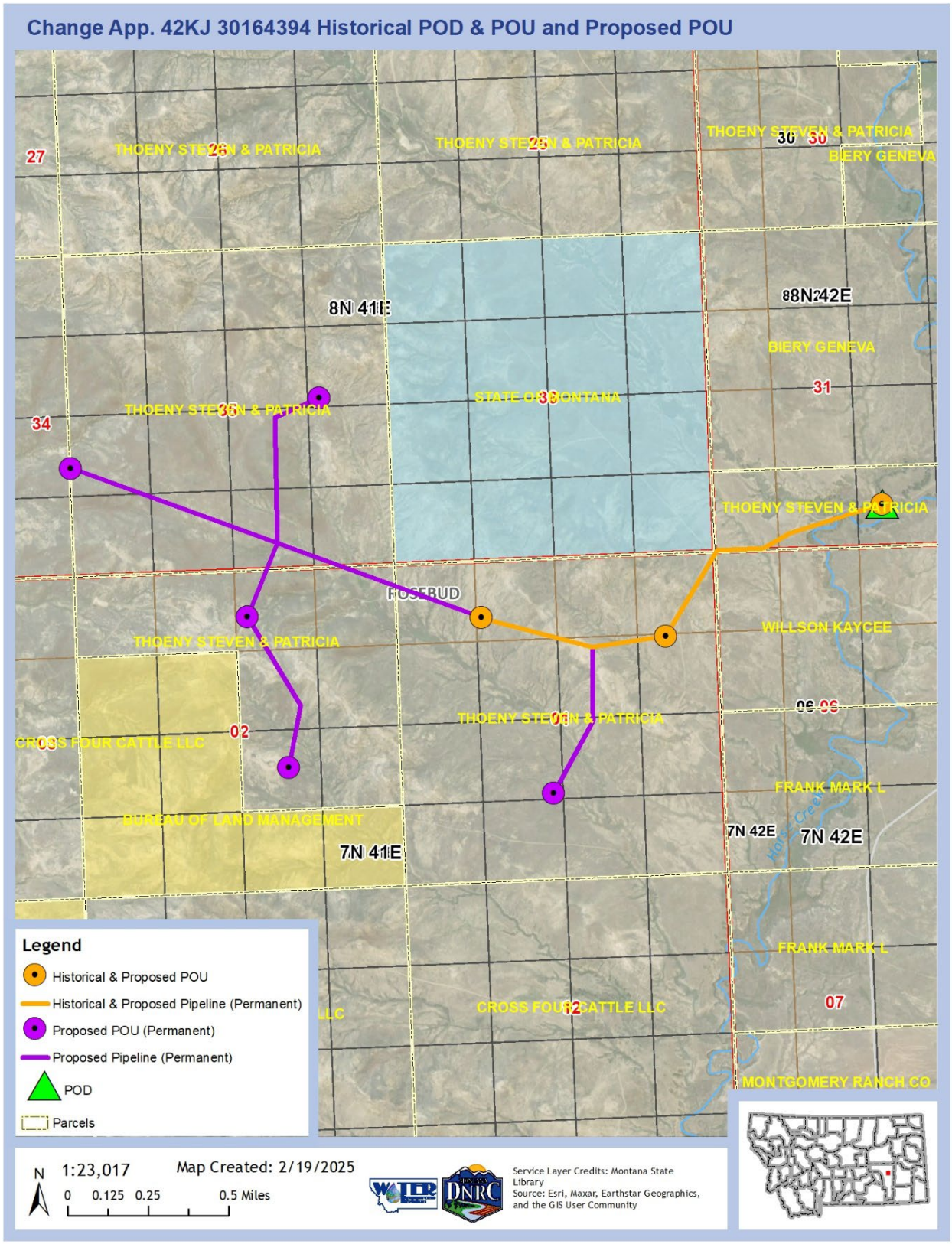


Figure 1: Map of POD and proposed POU for Change Application No. 42KJ 30164394

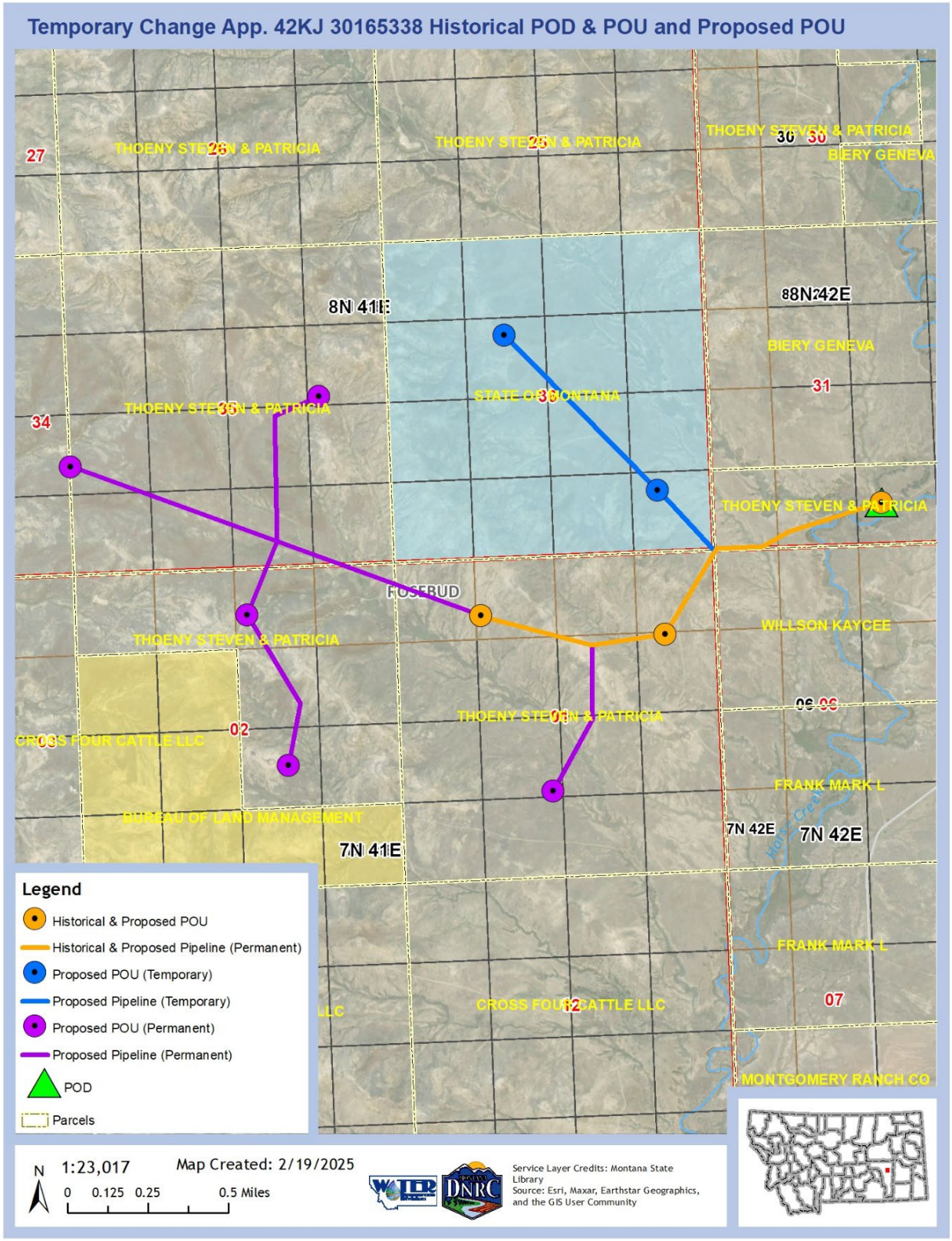


Figure 2: Map of POD and proposed POU for temporary Change Application No. 42KJ 30165338

CHANGE CRITERIA

11. 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.

12. 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).

13. In addition to the § 85-2-402(2), MCA, Applicants for a temporary change authorization must comply with the requirements and conditions set forth in § 85-2-407, MCA. Section 85-2-441, MCA, provides that a water right owner may temporarily apply water diverted from a well or developed spring located on private land to beneficial use on state trust land for the duration of a state land lease held by the water right owner. Pursuant to § 85-2-407, MCA, a temporary change may be approved for a period not to exceed 10 years. Upon expiration of the temporary change, the water right will automatically revert to its original terms. This temporary change may be renewed an indefinite number of times but may not exceed 10 years for each renewal. An application for renewal requires the written consent of the DNRC TLMD.

HISTORICAL USE AND ADVERSE EFFECT

FINDINGS OF FACT - Historical Use

14. The historical point of diversion for Groundwater Certificate 42KJ 30115997 is a groundwater well used for stock in the SWSWSE Section 31, T8N, R42E, Rosebud County. It has a priority date of January 29, 2018. The historical place of use are three tanks in the SWSWSE Sec. 31, T8N, R42E, and the NWSENE and Government Lot 3 (SWNENW), Sec. 1, T7N, R41E, Rosebud County. The Applicants propose to permanently change the place of use of Groundwater Certificate 42KJ 30115997 in Change Application No. 42KJ 30164394 and temporarily change the place of use in Change Application No. 42KJ 30165338. The Applicants propose to add five (5) new tanks in five (5) new places of use through Change Application No. 42KJ 30164394, and seven (7) new tanks (with two (2) of them being temporary) in seven (7) new places of use through Change Application No. 42KJ 30165338.

15. A pipeline system connects the tanks in the places of use to the point of diversion. The existing tanks have an approximate 1,000-gallon capacity and are equipped with floats which turn off water to the tank when the tank is full. There are no losses associated with the historical conveyance system.

16. The flow rate is 30 GPM for 8.5 AF of water annually. The historical flow rate of 30 GPM is based on the amount of time to fill a 5-gallon bucket measured with a stopwatch. This is supported by information provided in the Notice of Completion of Groundwater Development as filed on January 29, 2018, and by the air test completed by the well driller noted on the Well Log Report, GWIC 294156.

17. The stock purpose is for up to 500 head of cattle (animal units or AU) from January 1 to December 31. The volume of 8.5 AF was determined using the Department standard for livestock of 15 GPD/AU or 0.017 AF/AU (500 AU * 0.017 AF/AU = 8.5 AF). Stock use is considered 100% consumptive therefore the historical consumed volume and historical diverted volume are the same, and the Department finds the historical consumed and diverted volume is 8.5 AF, as shown in Table 4.

Table 4. Historical consumed and diverted volumes

Purpose	Animal Units	Consumed Volume	Diverted Volume
Stock	500 AU	8.5 AF	8.5 AF

18. Statement of Claim 42KJ 16907-00 and Statement of Claim 42KJ 108284-00 both overlap the historical place of use for Groundwater Certificate 42KJ 30115997 and are for the same purpose of stock. Statement of Claim 42KJ 16907-00 and Statement of Claim 42KJ 108284-00 are surface water rights for the same on-stream dam in the SENE Sec. 1, T7N, R41E and are used to service the same herd as Groundwater Certificate 42KJ 30115997. The source of the two claims is an unnamed tributary to Horse Creek which is ephemeral and unreliable. Statement of Claim 42KJ 30112138 is owned by the Montana State Board of Land Commissioners for stock use from Schultz Creek in the E2, Sec. 36, T8N, R41E and overlaps the proposed place of use. The Applicants may be able to use this water right while leasing the section. The Applicants' herd will use the various sources as available to them. Statement of Claim 42KJ 16909-00 is also an overlapping water right for a groundwater well with a purpose of stock. This well was abandoned and is no longer used. It was replaced by Groundwater Certificate 42KJ 30115997.

19. The Department finds the historical use, as shown in Table 5.

Table 5. Summary of historical use findings for Groundwater Certificate 42KJ 30115997

Priority Date	Flow Rate (GPM)	Purpose	Diverted Volume (AF)	Consumptive Volume (AF)	Place of Use	Point of Diversion
January 29, 2018	35	Stock	8.5	8.5	SWSWSE Sec. 31, T8N, R42E; NWSENE, Sec. 1, T7N, R41E; Gov't Lot 3 (SWNENW), Sec. 1, T7N, R41E, Rosebud County	SWSWSE Sec. 31, T8N, R42E, Rosebud County

ADVERSE EFFECT

FINDINGS OF FACT

20. The historical use for Groundwater Certificate 42KJ 30115997 is for 30 GPM up to 8.5 AF for stock purposes for 500 AU from January 1 to December 31 (Table 5). In Change Application No. 42KJ 30164394, the Applicants propose to supply water from the existing well to five (5) additional stock tanks, for a total of eight (8) tanks supplied through the pipeline system. In Change Application No. 42KJ 30165338, the Applicants propose to temporarily supply water to seven (7) additional stock tanks, for a total of ten (10) tanks supplied through the pipeline system. In both Change Applications, the herd size will not increase under the proposed change. Neither the flow rate nor the volume will increase as part of these changes. There will be no change in the rate or timing of stock use. Only the place of use will change due to the addition of stock tanks. Water will be conveyed to the additional stock tanks through a pipeline so there will be no conveyance losses. The Applicants propose to equip each stock tank with float/shut-off valves to control flow to the tanks. All tanks are automatically shut off via float valve. The Applicants can shut off the well pump if call is made. There are no plans or requirements to measure diversion or use from this system. The Department finds there will be no adverse effect as a result of this change.

BENEFICIAL USE

FINDINGS OF FACT

21. For both Change Application No. 42KJ 30164394 and 42KJ 30165338, the Applicants propose to use water for stock which is recognized as a beneficial use under the Montana Water Use Act. §85-2-102 (5), MCA. These changes authorizing additional places of use will allow the Applicants to rotate grazing and better manage the range and their cattle herd.

22. The Applicants propose to use 30 GPM flow rate, and 8.5 AF diverted volume. This amount is supported by the historical beneficial use and Department standards. The volume of 8.5 AF is the maximum amount consumed by the Applicants' livestock.

23. The Applicants have existing, overlapping water rights on the historical and proposed places of use, but these rights are unreliable or not in use.

24. The Department finds that stock is a beneficial use, and the flow rate and volume are the amounts of water necessary for stock.

ADEQUATE DIVERSION

FINDINGS OF FACT

25. The Applicants divert water by means of a groundwater well, GWIC ID 294156. The well is 120 feet in depth and was drilled by a licensed well driller. The well is connected to a 1.5-mile-long buried pipeline system of 1.5-inch HDP pipe which conveys water to the existing places of use. Each historical place of use has an approximately 1,000-gallon tank. The three tanks are equipped with shut off valves and ball valves with floats to control the level of the water and/or shut off water. The well has a 1 HP pump which can provide the flow rate necessary to maintain the tanks as the level set by the float valves. The well has a shut off valve and the pump can be shut off if valid call is made.

26. In Change Application No. 42KJ 30164394, the proposed places of use will be served by the existing pipeline and approximately 3 miles of new pipeline to connect the five (5) proposed tanks. The proposed pipeline will be buried 1.5-inch HDP pipe and will attach to the existing pipeline in two places: at the end of the existing pipeline at Tank 3 in Gov't Lot 3 (SWNENW) Sec. 1, T7N, R41E; and between Tanks 2 and 3 in the NWSWNE Sec. 1, T7N, R41E. The proposed five (5) new tanks will have an approximate 1,500-gallon capacity each. The new tanks will be equipped with shut off valves and ball valves with floats to control the level of the water and/or shut off water. The proposed pipeline and tank system is designed by the US Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS). The Department finds the proposed means of diversion and conveyance systems to be adequate for Change Application No. 42KJ 30164394.

27. In Change Application No. 42KJ 30165338, the proposed places of use will be served by the existing pipeline, approximately 3 miles of new pipeline to connect the five (5) proposed permanent tanks, and a 1.0-mile-long extension added from the SESW Sec. 31, T8N, R42E, onto TLMD land to service the two (2) temporary tanks. The proposed pipeline will be buried 1.5-inch HDP pipe and will attach to the existing pipeline in three places: at the end of the existing pipeline at Tank 3 in Gov't Lot 3 (SWNENW) Sec. 1, T7N, R41E; between Tanks 2 and 3 in the NWSWNE Sec. 1, T7N, R41E; and in the SESESE corner of Sec. 36, T8N, R41E. The proposed seven (7) new tanks will have an approximate 1,500-gallon capacity each. The new tanks will be equipped with shut off valves and ball valves with floats to control the level of the water and/or shut off water. The proposed pipeline and tank system is designed by the USDA NRCS. The Department

finds the proposed means of diversion and conveyance systems to be adequate for Change Application No. 42KJ 30165338.

POSSESSORY INTEREST

FINDINGS OF FACT

28. The Applicant signed the affidavit on the application form affirming the Applicant has 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. All places of use proposed in permanent Change Application No. 42KJ 30164394 are owned by the Applicants.

29. For Change Application No. 42KJ 30165338, some of the proposed places of use are located on property owned by the State of Montana TLMD and leased by the Applicants. These places of use are being added through a temporary change in appropriation right to use the lessee's water right on school trust land for the duration of State Lease AG-2063 pursuant to §§85-2-407 and -441, MCA. Authorizations for Temporary Change in Appropriation Right for the lease was signed by the Applicant on July 22, 2024, signed by Chris Pileski for the DNRC Eastern Land Office on October 17, 2024, and signed by Elizabeth Miller for DNRC TLMD Ag and Grazing Bureau on July 29, 2024. State Lease AG-2063 took effect March 1, 2017, for a term of 10 years with an expiration date of February 28, 2027. If the Applicants renew the lease, they must apply to renew the temporary change authorization to continue using these places of use.

30. The following condition is proposed to satisfy the possessory interest criterion: IN THE PRESENT CASE, THE APPLICANTS ARE THE OWNER OF GROUNDWATER CERTIFICATE 42KJ 30115997. THE APPLICANTS PROPOSE TO TAKE WATER DIVERTED FROM THE WELL LOCATED ON PRIVATE PROPERTY, AND TEMPORARILY USE IT FOR STOCK USE ON STATE TRUST LAND FOR THE DURATION OF AGRICULTURAL & GRAZING LEASE OF STATE LANDS AGREEMENT NO 2063. THE APPLICANTS OBTAINED WRITTEN CONSENT FROM THE DNRC TRUST LAND MANAGEMENT DIVISION TO TEMPORARILY USE GROUNDWATER CERTIFICATE 42KJ 30115997 ON THE STATE TRUST LAND FOR THE DURATION OF AGRICULTURAL & GRAZING LEASE OF STATE LANDS AGREEMENT NO. 2063. EXPIRATION OR TERMINATION OF AGRICULTURAL & GRAZING LEASE OF STATE LANDS AGREEMENT NO. 2063 WILL RESULT IN THE REVOCATION OF TEMPORARY

CHANGE AUTHORIZATION 42KJ 30165338, AND GROUNDWATER CERTIFICATE 42KJ 30115997 WILL REVERT TO THE PREVIOUS ACTIVE CHANGE VERSION.

CONCLUSIONS OF LAW

HISTORICAL USE AND ADVERSE EFFECT

31. 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).[1]

32. 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

[1] DNRC decisions are available at: https://dnrc.mt.gov/Directors-Office/HearingOrders

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.[2]

33. 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.[3] 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 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

[2] *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).

[3] 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

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).[4]

34. 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); *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).[5]

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[4] 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.)

[5] 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).

35. 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.

36. 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 past beneficial use.

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

37. The Department's rules reflect the above fundamental principles of Montana water law and are designed to itemize the type of 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.

38. Based upon the Applicants' evidence of historical use, the Applicants have proven by a preponderance of the evidence the historical use of Groundwater Certificate 42KJ 30115997 to be a diverted volume of 8.5 AF, a historically consumed volume of 8.5 AF, and flow rate of 30 GPM. (FOF Nos. 14-19)

39. Based upon the Applicants' comparative analysis of historical 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 No. 20)

BENEFICIAL USE

40. Change Applicants 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).

41. Applicants propose to use water for stock which is a recognized beneficial use. Section 85-2-102(5), MCA. Applicants have proven by a preponderance of the evidence stock is a beneficial use and that 8.5 AF of diverted volume and 30 GPM flow rate of water requested is the amount needed to sustain the beneficial use. Section 85-2-402(2)(c), MCA (FOF Nos. 21-24).

ADEQUATE MEANS OF DIVERSION

42. Pursuant to § 85-2-402 (2)(b), MCA, the Applicants must prove by a preponderance of the evidence that the proposed means of diversion, construction, and operation of the appropriation works are adequate. This codifies the prior appropriation principle that the means of diversion must be reasonably effective for the contemplated use and may not result in a waste of the resource. *Crowley v. 6th Judicial District Court*, 108 Mont. 89, 88 P.2d 23 (1939*); In the Matter of Application for Beneficial Water Use Permit No. 41C-11339900 by Three Creeks Ranch of Wyoming LLC* (DNRC Final Order 2002) (information needed to prove that proposed means of diversion, construction, and operation of the appropriation works are adequate varies based upon project complexity; design by licensed engineer adequate).

43. Pursuant to § 85-2-402 (2)(b), MCA, Applicants have proven by a preponderance of the evidence that the proposed means of diversion, construction, and operation of the appropriation works are adequate for the proposed beneficial use. (FOF Nos. 25-27)

POSSESSORY INTEREST

44. Pursuant to § 85-2-402(2)(d), MCA, the Applicants must prove by a preponderance of the evidence that it has a possessory interest, or the written consent of the person with the possessory interest, in the property where the water is to be put to beneficial use. See also ARM 36.12.1802.

45. The Applicants have proven by a preponderance of the evidence that it has a possessory interest, or the written consent of the person with the possessory interest, in the property where the water is to be put to beneficial use. (FOF Nos. 28-30)

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. 42KJ 30164394 should be GRANTED subject to the following.

The Department determines the Applicants may change Groundwater Certificate 42KJ 30115997 by permanently adding five (5) additional places of use. The Applicants will add five (5) new tanks in the SENESW Sec. 1, T7N, R41E; Gov't Lot 2 (W2NWNE) Sec. 2, T7N, R41E; NENWSE Sec. 2, T7N, R41E; SWSENE Sec. 35, T8N, R41E; and SWNWSW Sec. 35, T8N, R41E, Rosebud County, for stock use. There will be no changes to point of diversion, period of diversion, period of use, flow rate, volume, or purpose.

Subject to the terms and analysis in this Preliminary Determination Order, the Department preliminarily determines that this Application to Change Water Right No. 42KJ 30165338 should be GRANTED subject to the following.

The Department determines the Applicants may change Groundwater Certificate 42KJ 30115997 by temporarily adding seven (7) additional places of use. The Applicants will add seven (7) new tanks in the SENESW Sec. 1, T7N, R41E; Gov't Lot 2 (W2NWNE) Sec. 2, T7N, R41E; NENWSE Sec. 2, T7N, R41E; SWSENE Sec. 35, T8N, R41E; SWNWSW Sec. 35, T8N, R41E; and NWSESE and NESENW of Section 36, T8N, R41E, Rosebud County. Part of the proposed place of use is on land owned by the State of Montana and managed by DNRC School Trust Lands Management Division. These places of use are being added through a temporary change in appropriation right to use the lessee's water right on school trust land for the duration of State Agricultural and Grazing Lease No. 2063 (State Lease AG-2063) pursuant to §§85-2-407 and -441, MCA. The temporary change will expire February 28, 2027, in conjunction with State Lease AG-2063. State Lease AG-2063 took effect March 1, 2017, for a term of 10 years, with an expiration date of February 28, 2027. In the instance temporary Change Authorization 42KJ

30164394 is not renewed, expires, or is terminated, Groundwater Certificate 42KJ 30115997 will be used in accordance with the terms set forth on the original version of the water right. There will be no changes to point of diversion, period of diversion, period of use, flow rate, volume, or purpose. If granted, the Change Authorization will be subject to the following condition:

> IN THE PRESENT CASE, THE APPLICANTS ARE THE OWNER OF GROUNDWATER CERTIFICATE 42KJ 30115997. THE APPLICANTS PROPOSE TO TAKE WATER DIVERTED FROM THE WELL LOCATED ON PRIVATE PROPERTY, AND TEMPORARILY USE IT FOR STOCK USE ON STATE TRUST LAND FOR THE DURATION OF AGRICULTURAL & GRAZING LEASE OF STATE LANDS AGREEMENT NO 2063. THE APPLICANTS OBTAINED WRITTEN CONSENT FROM THE DNRC TRUST LAND MANAGEMENT DIVISION TO TEMPORARILY USE GROUNDWATER CERTIFICATE 42KJ 30115997 ON THE STATE TRUST LAND FOR THE DURATION OF AGRICULTURAL & GRAZING LEASE OF STATE LANDS AGREEMENT NO. 2063. EXPIRATION OR TERMINATION OF AGRICULTURAL & GRAZING LEASE OF STATE LANDS AGREEMENT NO. 2063 WILL RESULT IN THE REVOCATION OF TEMPORARY CHANGE AUTHORIZATION 42KJ 30165338, AND GROUNDWATER CERTIFICATE 42KJ 30115997 WILL REVERT TO THE PREVIOUS ACTIVE CHANGE VERSION.

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 22nd day of April 2025.

Mark Elison, Manager
Billings 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 22nd day of April, 2025, by first class United States mail.

PATRICIA & STEVEN THOENY
827 QUARTER HORSE ROAD
ROSEBUD, MT 59347

BILLINGS Regional Office, (406) 247-4415

Environmental Assessment & Public Notice for Public Comment

- Environmental Assessment & supporting documents
- Public Notice for Public Comment 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
  - Public Comment files

Environmental Assessment & Public Notice for Public Comment

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

Applicant/Contact name and address: PATRICIA & STEVEN THOENY
827 QUARTER HORSE ROAD
ROSEBUD, MT 59347

Type of action: Applications to Change a Water Right: Additional Stock Tanks 42KJ 30164394 and 42KJ 30165338

Water source name: Groundwater

Location affected by project: Section 31, T8N, R42E; Section 1 and Section 2, T7N, R41E; and Section 35 and Section 36, T8N, R41E, Rosebud County

Narrative summary of the proposed project, purpose, action to be taken, and benefits:
The Applicants propose two changes to Groundwater Certificate 42KJ 30115997. Change Application No. 42KJ 30164394 is a permanent change to the place of use to include five (5) new tanks. Change Application No. 42KJ 30165338 is a temporary change to the place of use to include the five (5) permanent tanks and two (2) temporary tanks on state land. Because two (2) of the places of use are temporary and will expire, while the five (5) others are permanent, two applications were created. The historical point of diversion is a well in the SWSWSE Sec. 31, T8N, R42E, Rosebud County. The historical places of use are three stock tanks in the SWSWSE Sec. 31, T8N, R42E; NWSENE Sec. 1, T7N, R41E; and Gov't Lot 3 (SWNENW), Sec. 1, T7N, R41E, Rosebud County.

In permanent Change Application No. 42KJ 30164394, the Applicants propose to add five stock tanks from the historical well. The Applicants will add pipeline to the existing pipeline. The five permanent tanks will be added in the SENESW Sec. 1, T7N, R41E; W2NWNE Sec. 2, T7N, R41E; NENWSE Sec. 2, T7N, R41E; SWSENE Sec. 35, T8N, R41E; and SWNWSW Sec. 35, T8N, R41E. The three historical places of use will be retained.

In temporary Change Application No. 42KJ 30165338, the Applicants propose to add the five permanent tanks from permanent Change Application No. 42KJ 30164394, to add pipeline to the existing pipeline and to add two new tanks in the NWSESE and NESENW Section 36, T8N, R41E, Rosebud County. Part of the proposed place of use is on land owned by the State of Montana and managed by DNRC School Trust Lands Management Division (TLMD). These places of use are being added through a temporary change in appropriation right to use the lessee's water right on school trust land for the duration of State Agricultural and Grazing Lease No. 2063 (State Lease AG-2063) pursuant to §§85-2-407 and -441, MCA. The temporary change will expire February 28, 2027, in conjunction with State Lease AG-2063. State Lease AG-2063 took effect March 1, 2017, for a term of 10 years, with an expiration date of February 28, 2027. In the instance temporary Change Authorization 42KJ 30164394 is not renewed, expires, or is

terminated, Groundwater Certificate 42KJ 30115997 will be used in accordance with the terms set forth on the original version of the water right. There will be no changes to point of diversion, period of diversion, period of use, flow rate, volume, or purpose. The DNRC shall issue a change authorization if an applicant proves the criteria in 85-2-402 MCA are met.

Agencies consulted during preparation of the Environmental Assessment:

(include agencies with overlapping jurisdiction)

Montana Department of Natural Resources and Conservation (DNRC)
Montana Department of Fish, Wildlife, and Parks (FWP)
Montana Department of Environmental Quality (DEQ)
Montana Sage Grouse Habitat Conservation Program (SGHCP)
Montana Natural Heritage Program (NHP)
United States Natural Resource Conservation Service (NRCS)
United States Fish and Wildlife Service (USFWS)
United States Department of Agriculture Natural Resources and Conservation Service (USDA NRCS)

Part II. Environmental Review

Environmental Impact Checklist:

PHYSICAL ENVIRONMENT

WATER QUANTITY, QUALITY AND DISTRIBUTION

Water quantity **–** The water source is a well that has been in use since 2018. The proposed change will not increase the flow rate or volume of water already appropriated through Groundwater Certificate 42KJ 30115997 and will have no novel effect on water quantity.

Determination: No significant impact

Water quality **–** Adding additional places of use will have no effect on the water quality. Stock use is considered 100% consumptive.

Determination: No significant impact

Groundwater **–** Adding additional stock tanks to an existing water right will not affect groundwater. Adding additional stock tanks without changing the herd size does not increase diverted volume

Determination: No significant impact

Diversion works - Groundwater Certificate 42KJ 30115997 diverts water by means of a groundwater well. The well is in place and will not be altered as a result of the proposed change. Additional miles of buried pipeline and seven above ground stock tanks will be added. A portion of the buried pipeline is on private property and a portion is on State School Trust Lands, the construction of which has been approved by the DNRC Trust Lands Management Division (TLMD). The additional stock tanks are above ground and should have no negative impact on the physical environment.

Determination: No significant impact

UNIQUE, ENDANGERED, FRAGILE OR LIMITED ENVIRONMENTAL RESOURCES

Endangered and threatened species **–** According to the Montana SGHCP Map, this project is within a core area identified as Sage Grouse habitat. A request for consultation with the Montana Sage Grouse Program was received on April 23, 2024, and review was completed by the Montana Sage Grouse Program on May 2, 2024. The review finds that the Applicant's voluntary adherence to construction timing restrictions, restricted seasonal use, and weed management plans are consistent with the Montan Sage Grouse Conservation Strategy.

In addition to Greater Sage Grouse and Sharp-tailed Grouse, Black-tailed Prairie Dog, Greater Short-horned Lizard, Loggerhead Shrike, Bald Eagle, and Short-eared Owl are species of concern identified as being observed within the project area. The temporary disruption for

construction and continued use of the land under livestock grazing practices are not anticipated to cause novel significant impact to these species.

Determination: No significant impact

Wetlands **–** According to wetland mapping by the USFWS, the wetlands in the project area include aquatic bed, unconsolidated shore and emergent palustrine wetlands, intermittent riverine areas, and lotic riparian habitats. The proposed infrastructure is not indicated to be directly within wetland habitat types as the purpose of the stock tanks is to provide livestock water to generally dry areas.

Determination: No significant impact

Ponds **–**There are no ponds within the project area and no ponds are proposed.

Determination: No impact

Geology/Soil Quality, Stability and Moisture **–** According to the USDA NRCS, the predominant soil types in the project area are Lonna silty clay loam, 2 to 8 percent slopes, Delpoint-Yamacall-Cabbart loams, 8 to 25 percent slopes, and Busby-Twilight-Blacksheep fine sandy loams, 8 to 35 percent slopes. These soil types are considered well drained and nonsaline to very slightly saline, and not prime farmland. All other soil types represent less than 10% of the proposed project area. The proposed changes are unlikely to cause any long-term or cumulative impact on soil quality or stability, though there may be short-term disturbance caused by the installation of infrastructure.

Determination: No significant impact.

Vegetation Cover, Quantity and Quality/Noxious Weeds – Existing vegetative cover in the area is predominately Big Sagebrush Steppe, Great Plains Mixedgrass Prairie, with less than 10% made up of Great Plains Riparian, Great Plains Badlands, and Great Plains Sand Prairie. This vegetative cover provides the grazing habitat for livestock and will be utilized as available. The proposed project to install pipeline and stock tanks will potentially cause low disturbance during construction with minimal impacts.

Determination: No significant impact

Air quality **–** The proposed changes for livestock use will not impact air quality.

Determination: No impact

Historical and archeological sites **–** For the proposed project on private land, there will be no impact. For the proposed project on School Trust Land, DNRC TLMD has provided approval for the addition of these temporary tanks under State Lease AG-2063.

Determination: No impact

Demands on environmental resources of land, water, and energy – No additional demands on environmental resources are recognized.

Determination: No impact

HUMAN ENVIRONMENT

Locally adopted environmental plans and goals **–** There are no known locally adopted environmental plans or goals.

Determination: Not applicable

Access to and quality of recreational and wilderness activities **–** The portion of the proposed project located on privately owned grazing land will not impact access to recreational or wilderness activities. The opportunity to access recreational and wilderness activities on School Trust Lands is not impacted by the proposed project. The addition of temporary pipeline infrastructure and stock tanks to land currently managed for livestock grazing does not impede any existing recreational or wilderness activities provided by School Trust Lands.

Determination: No impact

Human health **–** No impacts to human health have been identified for the proposed irrigation project.

Determination: No impact

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 impact

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 impact

(b) *Local and state tax base and tax revenues**?*** No significant impact

(c) *Existing land uses?* No significant impact

(d) *Quantity and distribution of employment?* No significant impact

(e) *Distribution and density of population and housing?* No significant impact

(f) *Demands for government services?* No significant impact

(g) *Industrial and commercial activity?* No significant impact

(h) *Utilities?* No significant impact

(i) *Transportation?* No significant impact

(j) *Safety?* No significant impact

Other appropriate social and economic circumstances? No significant impact

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

(a) *Secondary Impacts:* No secondary impacts are recognized

(b) *Cumulative Impacts*: No cumulative impacts are recognized

Describe any mitigation/stipulation measures: The Montana SGHCP recommended mitigation strategies to support the Sage Grouse Conservation Strategy which the Applicants voluntarily agreed to adhere to.

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 alternative to the proposed project is the no action alternative. The no action alternative prevents the property owner from improving the operation of their stock watering system and does not allow them to add permanent stock tanks on private land or temporary stock tanks on State Trust Lands. The no action alternative does not prevent or mitigate any significant environmental impacts.

PART III. Conclusion

1. Preferred Alternative: Issue the change authorizations if the Applicants prove the criteria in 85-2-402 MCA are met.

2 Comments and Responses: None

Finding:
*Yes__ No_**x**_ Based on the significance criteria evaluated in this EA, is an EIS required?*

There are no significant impacts associated with the project, so an environmental assessment is the appropriate level of analysis.

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

Name: Veronica Corbett
Title: Water Resource Specialist
Date: April 4, 2025

Environmental Summary

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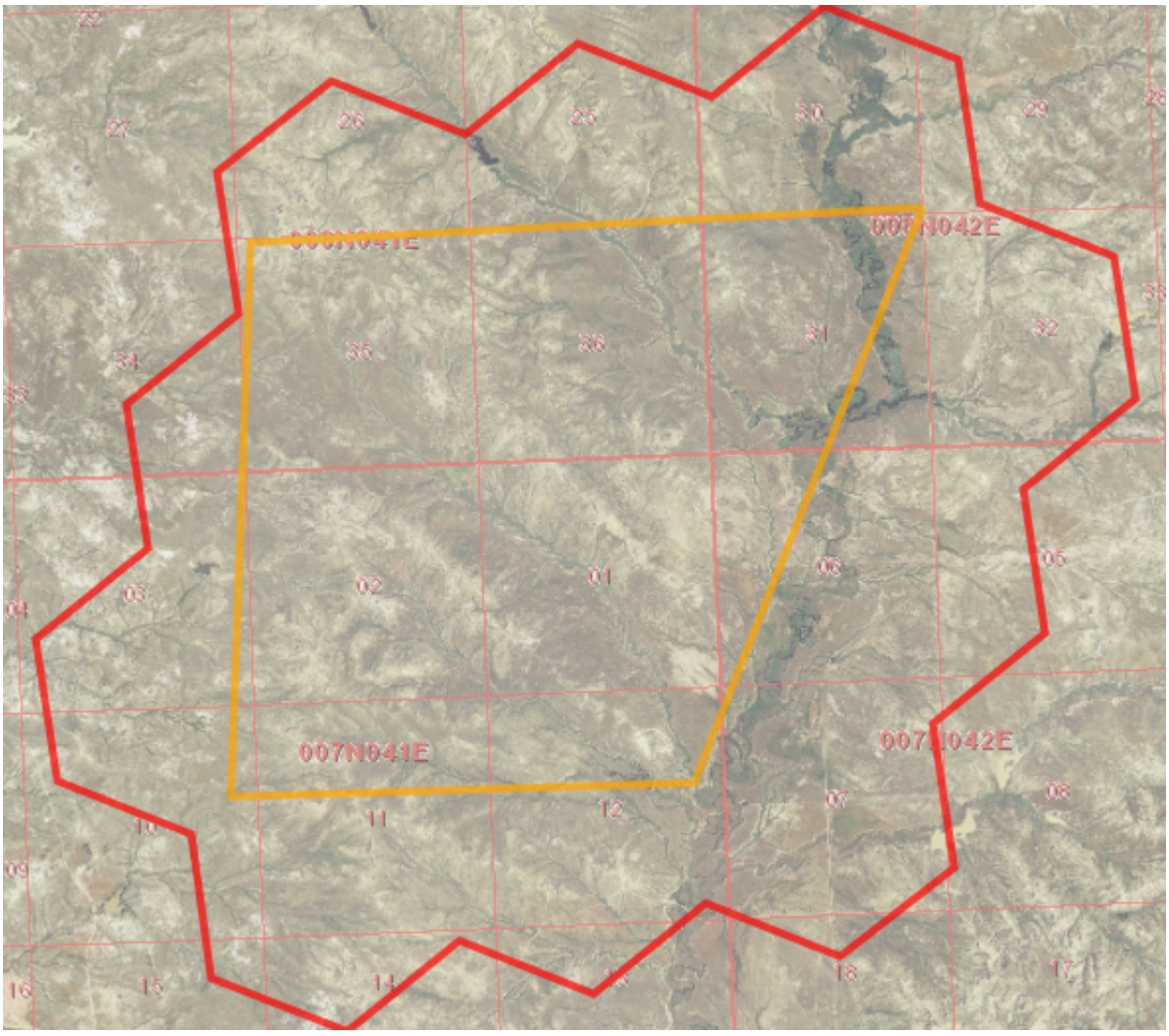
Latitude	Longitude
46.36283	-106.48956
46.42386	-106.59180

Summarized by:
Thoeny NHP
(Custom Area of Interest)



Suggested Citation
Montana Natural Heritage Program. Environmental Summary Report.
for Latitude 46.36283 to 46.42386 and Longitude -106.48956 to -106.59180. Retrieved on 4/3/2025.

The Montana Natural Heritage Program is part of the Montana State Library's Natural Resource Information System. Since 1985, it has served as a neutral and non-regulatory provider of easily accessible information on Montana's species and biological communities to inform all stakeholders in environmental review, permitting, and planning processes. The program is part of the NatureServe network that is composed of over 60 member programs across North America that work to provide current and comprehensive distribution and status information on species and biological communities.

MONTANA STATE LIBRARY NATURAL HERITAGE PROGRAM
NATURESERVE

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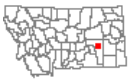
Legend

Model Icons	Habitat Icons	Range Icons	Num Obs
N Suitable (native range)	C Common	Y Native / Year-round	Count of obs with 'good precision' (<=1000m)
O Optimal Suitability	O Occasional	S Summer	+ indicates additional 'poor precision' obs (1001m-10,000m)
M Moderate Suitability		W Winter	
L Low Suitability		M Migratory	
I Suitable (introduced range)		N Non-native	
		H Historical	



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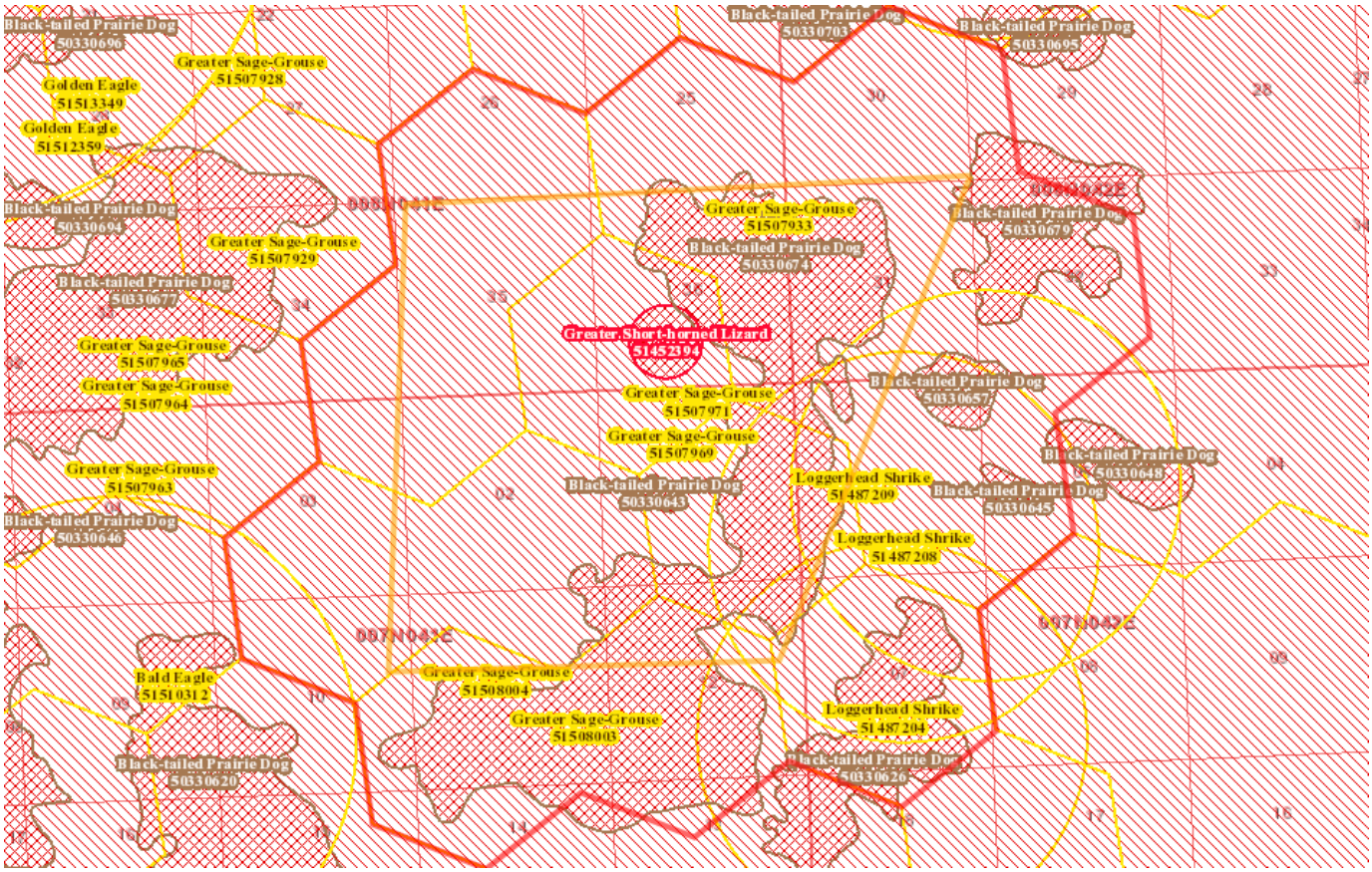
Native Species

Summarized by: **Thoeny NHP** *(Custom Area of Interest)*
Filtered by:
Native Species reports are filtered for Species with MT Status = Species of Concern, Special Status, Important Animal Habitat, Potential SOC



Species Occurrences

	USFWS Sec7	# SO	# Obs	Predicted Model	Range
M - Black-tailed Prairie Dog *(Cynomys ludovicianus)* **SOC**		8	22		Y

View in Field Guide **View Predicted Models** **View Range Maps**
Species of Concern - Native Species Global: **G4** State: **S3** BLM: **SENSITIVE** FWP SWAP: **SGCN3**

Delineation Criteria Areas with recent evidence of activity (i.e. burrow entrances) visible on recent National Agricultural Imagery Program (NAIP) aerial color photographic imagery that are within a distance of 200 meters of definitive observations buffered by the locational uncertainty of less than or equal to 1,000 meters. (Last Updated: Jul 03, 2019)

Predicted Models: M 100% Moderate (inductive)

B - Greater Sage-Grouse *(Centrocercus urophasianus)* **SOC**		11	2		Y

View in Field Guide **View Predicted Models** **View Range Maps**
USFS: **Sensitive - Known in Forests (BD)**
Species of Concern - Native Species Global: **G3G4** State: **S2** **Species of Conservation Concern in Forests (CG)** BLM: **SENSITIVE** FWP SWAP: **SGCN2** PIF: **1**

Delineation Criteria Confirmed breeding area based on the presence of a nest, chicks, juveniles, or adults on a lek. Point observations are mapped in the center of a one-square mile hexagon to protect the exact locations of leks. The outer edges of this hexagon are then buffered by a distance of 6,400 meters in order to encompass a body of research indicating that females typically nest within this distance of a lek and that lek numbers are negatively impacted by fossil fuel drilling activities within this distance of a lek. If the locational uncertainty associated with the observation is greater than 5,000 meters, the observation is not valid for creation of a species occurrence. All of the one-square mile hexagons intersecting this buffered area are presented as the Species Occurrence record. (Last Updated: Jan 10, 2025)

Predicted Models: M 100% Moderate (inductive)

R - Greater Short-horned Lizard *(Phrynosoma hernandesi)* **SOC**		1	1		Y

View in Field Guide **View Predicted Models** **View Range Maps**
Species of Concern - Native Species Global: **G5** State: **S3** BLM: **SENSITIVE** FWP SWAP: **SGCN3, SGIN**

Delineation Criteria Confirmed breeding area based on the presence of a resident animal of any age. Point observation location is buffered by a minimum distance of 300 meters in order to encompass habitats supporting other individuals and documented distances moved betweeen summer and winter habitats. Otherwise the point observation is buffered by the locational uncertainty associated with the observation up to a maximum distance of 5,000 meters. (Last Updated: Dec 18, 2024)

Predicted Models: M 100% Moderate (inductive)

B - Loggerhead Shrike *(Lanius ludovicianus)* **SOC** 4 S M

View in Field Guide **View Predicted Models** **View Range Maps**

Species of Concern - Native Species Global: **G4** State: **S3B** USFWS: **MBTA** BLM: **SENSITIVE** FWP SWAP: **SGCN3** PIF: **2**

Delineation Criteria Confirmed breeding area based on the presence of a nest, chicks, or territorial adults during the breeding season. Point observation location is buffered by a minimum distance of 300 meters in order to encompass the maximum breeding territory size reported for the species in Alberta and Idaho and otherwise is buffered by the locational uncertainty associated with the observation up to a maximum distance of 5,000 meters. (Last Updated: Dec 26, 2024)

Predicted Models: M 50% Moderate (inductive), L 50% Low (inductive)

B - Bald Eagle *(Haliaeetus leucocephalus)* **SSS** 1 Y

View in Field Guide **View Predicted Models** **View Range Maps**

Special Status Species - Native Species Global: **G5** State: **S4** USFWS: **BGEPA; MBTA** USFS: **Sensitive - Known in Forests (LOLO)** BLM: **SENSITIVE** PIF: **2**

Delineation Criteria Confirmed nesting area buffered by a minimum distance of 2,000 meters in order to be conservative about encompassing the breeding territory and area commonly used for renesting. Only nesting observations with a locational uncertainty of 1,000 meters or less will be used to delineate a nesting area. (Last Updated: Feb 12, 2025)

Predicted Models: L 7% Low (inductive)

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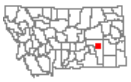
Legend

Model Icons	Habitat Icons	Range Icons	Num Obs
N Suitable (native range)	C Common	Y Native / Year-round	Count of obs with 'good precision' (<=1000m)
O Optimal Suitability	O Occasional	S Summer	+ indicates additional 'poor precision' obs (1001m-10,000m)
M Moderate Suitability		W Winter	
L Low Suitability		M Migratory	
I Suitable (introduced range)		N Non-native	
		H Historical	



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Native Species

Summarized by: **Thoeny NHP** *(Custom Area of Interest)*
Filtered by:
Native Species reports are filtered for Species with MT Status = Species of Concern, Special Status, Important Animal Habitat, Potential SOC

Other Observed Species

	USFWS Sec7	# Obs	Predicted Model	Range
B - Short-eared Owl *(Asio flammeus)* **PSOC**		1		Y

View in Field Guide **View Predicted Models** **View Range Maps**
Potential Species of Concern - Native Species
Global: **G5** State: **S4** USFWS: **MBTA; BCC11; BCC17** PIF: **3**
Predicted Models: L 79% Low (inductive)

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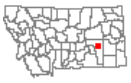
Legend

Model Icons	Habitat Icons	Range Icons	Num Obs
N Suitable (native range)	C Common	Y Native / Year-round	Count of obs with 'good precision' (<=1000m)
O Optimal Suitability	O Occasional	S Summer	+ indicates additional 'poor precision' obs (1001m-10,000m)
M Moderate Suitability		W Winter	
L Low Suitability		M Migratory	
I Suitable (introduced range)		N Non-native	
		H Historical	



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Native Species

Summarized by: **Thoeny NHP** *(Custom Area of Interest)*
Filtered by:
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Other Potential Species

	USFWS Sec7	Predicted Model	Range
V - Dalea enneandra *(Nine-anther prairie clover)* **SOC**			Y
M - Merriam's Shrew *(Sorex merriami)* **SOC**			Y
B - Brewer's Sparrow *(Spizella breweri)* **SOC**			S M
B - Burrowing Owl *(Athene cunicularia)* **SOC**			S M
V - Pediomelum hypogaeum var. hypogaeum *(Little Indian Breadroot)* **PSOC**			Y
M - Dwarf Shrew *(Sorex nanus)* **PSOC**			Y
B - Sage Thrasher *(Oreoscoptes montanus)* **SOC**			S M
A - Great Plains Toad *(Anaxyrus cognatus)* **SOC**			Y
A - Northern Leopard Frog *(Lithobates pipiens)* **SOC**			Y
B - Golden Eagle *(Aquila chrysaetos)* **SOC**			Y
B - Mountain Plover *(Anarhynchus montanus)* **SOC**			S M
V - Ipomoea leptophylla *(Bush morning-glory)* **SOC**			Y

View in Field Guide **View Predicted Models** **View Range Maps**
Species of Concern - Native Species Global: **G5** State: **S2S3** Plant Threat Score: **No Known Threats**
Predicted Models: O 7% Optimal (inductive), M 79% Moderate (inductive), L 14% Low (inductive)

View in Field Guide **View Predicted Models** **View Range Maps**
Species of Concern - Native Species Global: **G4** State: **S3** FWP SWAP: **SGCN3**
Predicted Models: M 100% Moderate (inductive)

View in Field Guide **View Predicted Models** **View Range Maps**
Species of Concern - Native Species Global: **G5** State: **S3B** USFWS: **MBTA** BLM: **SENSITIVE** FWP SWAP: **SGCN3** PIF: **2**
Predicted Models: M 100% Moderate (inductive)

View in Field Guide **View Predicted Models** **View Range Maps**
Species of Concern - Native Species Global: **G4** State: **S3B** USFWS: **MBTA; BCC17** BLM: **SENSITIVE** FWP SWAP: **SGCN3** PIF: **1**
Predicted Models: M 79% Moderate (inductive), L 21% Low (inductive)

View in Field Guide **View Predicted Models** **View Range Maps**
Potential Species of Concern - Native Species Global: **G5T4** State: **S3S4**
Predicted Models: M 71% Moderate (inductive), L 29% Low (inductive)

View in Field Guide **View Predicted Models** **View Range Maps**
Potential Species of Concern - Native Species Global: **G4** State: **S2S3** FWP SWAP: **SGCN2-3**
Predicted Models: M 64% Moderate (inductive), L 36% Low (inductive)

View in Field Guide **View Predicted Models** **View Range Maps**
Species of Concern - Native Species Global: **G4** State: **S3B** USFWS: **MBTA** BLM: **SENSITIVE** FWP SWAP: **SGCN3** PIF: **3**
Predicted Models: M 57% Moderate (inductive), L 43% Low (inductive)

View in Field Guide **View Predicted Models** **View Range Maps**
Species of Concern - Native Species Global: **G5** State: **S3** BLM: **SENSITIVE** FWP SWAP: **SGCN2**
Predicted Models: M 43% Moderate (inductive), L 57% Low (inductive)

View in Field Guide **View Predicted Models** **View Range Maps**
Species of Concern - Native Species Global: **G5** State: **S3S4** USFS: **Sensitive - Suspected in Forests (KOOT, LOLO)** BLM: **SENSITIVE** FWP SWAP: **SGCN1**
Predicted Models: M 43% Moderate (inductive), L 57% Low (inductive)

View in Field Guide **View Predicted Models** **View Range Maps**
Species of Concern - Native Species Global: **G5** State: **S3** USFWS: **BGEPA; MBTA** BLM: **SENSITIVE** FWP SWAP: **SGCN3**
Predicted Models: M 36% Moderate (inductive), L 64% Low (inductive)

View in Field Guide **View Predicted Models** **View Range Maps**
Species of Concern - Native Species Global: **G3** State: **S2B** USFWS: **MBTA; BCC10; BCC11; BCC17** BLM: **SENSITIVE** FWP SWAP: **SGCN2** PIF: **1**
Predicted Models: M 29% Moderate (inductive), L 71% Low (inductive)

View in Field Guide **View Predicted Models** **View Range Maps**
Species of Concern - Native Species Global: **G3G5** State: **S1S2** Plant Threat Score: **No Known Threats**
Predicted Models: M 29% Moderate (inductive), L 64% Low (inductive)

V - Cirsium pulcherrimum *(Wyoming Thistle)* SOC

View in Field Guide | View Predicted Models | View Range Maps
Species of Concern - Native Species Global: **G5** State: **S3** Plant Threat Score: **Low** CCVI: **Less Vulnerable**
Predicted Models: M 21% Moderate (inductive), L 64% Low (inductive)

B - Yellow-billed Cuckoo *(Coccyzus americanus)* SOC

View in Field Guide | View Predicted Models | View Range Maps
Species of Concern - Native Species Global: **G5** State: **S3B** USFWS: **PS: LT; MBTA** BLM: **THREATENED** FWP SWAP: **SGCN3, SGIN** PIF: **2**
Predicted Models: M 21% Moderate (inductive), L 57% Low (inductive)

R - Plains Hog-nosed Snake *(Heterodon nasicus)* SOC

View in Field Guide | View Predicted Models | View Range Maps
Species of Concern - Native Species Global: **G5** State: **S2** BLM: **SENSITIVE** FWP SWAP: **SGCN2, SGIN**
Predicted Models: M 14% Moderate (inductive), L 86% Low (inductive)

R - Snapping Turtle *(Chelydra serpentina)* SOC

View in Field Guide | View Predicted Models | View Range Maps
Species of Concern - Native/Non-native Species - (depends on location or taxa) Global: **G4G5** State: **S3** BLM: **SENSITIVE** FWP SWAP: **SGCN3, SGIN**
Predicted Models: M 14% Moderate (inductive), L 64% Low (inductive)

M - Northern Hoary Bat *(Lasiurus cinereus)* SOC

View in Field Guide | View Predicted Models | View Range Maps
Species of Concern - Native Species Global: **G3G4** State: **S3B** BLM: **SENSITIVE** FWP SWAP: **SGCN3**
Predicted Models: M 7% Moderate (inductive), L 93% Low (inductive)

M - Little Brown Myotis *(Myotis lucifugus)* SOC

View in Field Guide | View Predicted Models | View Range Maps
Species of Concern - Native Species Global: **G3G4** State: **S2S3** USFS: **Sensitive - Known in Forests (BD, BRT, KOOT)** FWP SWAP: **SGCN3**
Predicted Models: L 100% Low (inductive)

M - Long-eared Myotis *(Myotis evotis)* SOC

View in Field Guide | View Predicted Models | View Range Maps
Species of Concern - Native Species Global: **G5** State: **S3**
Predicted Models: L 100% Low (inductive)

M - North American Porcupine *(Erethizon dorsatum)* PSOC

View in Field Guide | View Predicted Models | View Range Maps
Potential Species of Concern - Native Species Global: **G5** State: **S3S4** FWP SWAP: **SGIN**
Predicted Models: L 100% Low (inductive)

M - Silver-haired Bat *(Lasionycteris noctivagans)* SOC

View in Field Guide | View Predicted Models | View Range Maps
Species of Concern - Native Species Global: **G3G4** State: **S3**
Predicted Models: L 100% Low (inductive)

B - Sharp-tailed Grouse *(Tympanuchus phasianellus)* SOC

View in Field Guide | View Predicted Models | View Range Maps
Species of Concern - Native Species Global: **G5** State: **S3S4** FWP SWAP: **SGCN1** PIF: **2**
Predicted Models: L 100% Low (inductive)

V - Psilocarphus brevissimus *(Dwarf woolly-heads)* SOC

View in Field Guide | View Predicted Models | View Range Maps
Species of Concern - Native Species Global: **G4** State: **S2S3** Plant Threat Score: **No Known Threats**
Predicted Models: L 100% Low (inductive)

B - Common Poorwill *(Phalaenoptilus nuttallii)* PSOC

View in Field Guide | View Predicted Models | View Range Maps
Potential Species of Concern - Native Species Global: **G5** State: **S4B** USFWS: **MBTA** FWP SWAP: **SGIN** PIF: **3**
Predicted Models: L 100% Low (inductive)

B - Ferruginous Hawk *(Buteo regalis)* SOC

View in Field Guide | View Predicted Models | View Range Maps
Species of Concern - Native Species Global: **G4** State: **S3B** USFWS: **MBTA; BCC17** BLM: **SENSITIVE** FWP SWAP: **SGCN3** PIF: **2**
Predicted Models: L 100% Low (inductive)

B - Long-billed Curlew *(Numenius americanus)* SOC

View in Field Guide | View Predicted Models | View Range Maps
Species of Concern - Native Species Global: **G4** State: **S3B** USFWS: **MBTA; BCC11** BLM: **SENSITIVE** FWP SWAP: **SGCN3** PIF: **2**
Predicted Models: L 100% Low (inductive)

I - Danaus plexippus *(Monarch)* SOC

View in Field Guide | View Predicted Models | View Range Maps
Species of Concern - Native Species Global: **G4** State: **S2S3** USFWS: **P** USFS: **Sensitive - Migratory in Forests (BD, BRT, KOOT)**
Predicted Models: L 100% Low (inductive)

V - Physaria brassicoides *(Double Bladderpod)* SOC

View in Field Guide | View Predicted Models | View Range Maps
Species of Concern - Native Species Global: **G5** State: **S3** Plant Threat Score: **No Known Threats**
Predicted Models: L 93% Low (inductive)

V - Astragalus geyeri *(Geyer's Milkvetch)* SOC

View in Field Guide | View Predicted Models | View Range Maps

Species of Concern - Native Species Global: **G4** State: **S2** Plant Threat Score: **No Known Threats** CCVI: **Highly Vulnerable**

Predicted Models: L 86% Low (inductive)

M - Preble's Shrew *(Sorex preblei)* SOC

View in Field Guide | View Predicted Models | View Range Maps

Species of Concern - Native Species Global: **G4** State: **S3** FWP SWAP: **SGCN3**

Predicted Models: L 79% Low (inductive)

V - Potentilla plattensis *(Platte Cinquefoil)* SOC

View in Field Guide | View Predicted Models | View Range Maps

Species of Concern - Native Species Global: **G4** State: **S3** Plant Threat Score: **No Known Threats** CCVI: **Highly Vulnerable**

Predicted Models: L 79% Low (inductive)

M - Spotted Bat *(Euderma maculatum)* PSOC

View in Field Guide | View Predicted Models | View Range Maps

Potential Species of Concern - Native Species Global: **G4** State: **S4** BLM: **SENSITIVE** FWP SWAP: **SGCN3, SGIN**

Predicted Models: L 71% Low (inductive)

B - American White Pelican *(Pelecanus erythrorhynchos)* SOC

View in Field Guide | View Predicted Models | View Range Maps

Species of Concern - Native Species Global: **G4** State: **S3B** USFWS: **MBTA** FWP SWAP: **SGCN3** PIF: **3**

Predicted Models: L 71% Low (inductive)

V - Chenopodium subglabrum *(Smooth Goosefoot)* SOC

View in Field Guide | View Predicted Models | View Range Maps

Species of Concern - Native Species Global: **G3G4** State: **S2** Plant Threat Score: **Unknown** CCVI: **Highly Vulnerable**

Predicted Models: L 64% Low (inductive)

B - Chestnut-collared Longspur *(Calcarius ornatus)* SOC

View in Field Guide | View Predicted Models | View Range Maps

Species of Concern - Native Species Global: **G5** State: **S2B** USFWS: **MBTA; BCC11; BCC17** BLM: **SENSITIVE** FWP SWAP: **SGCN2** PIF: **2**

Predicted Models: L 64% Low (inductive)

M - Long-legged Myotis *(Myotis volans)* SOC

View in Field Guide | View Predicted Models | View Range Maps

Species of Concern - Native Species Global: **G4G5** State: **S3**

Predicted Models: L 57% Low (inductive)

B - Eastern Screech-Owl *(Megascops asio)* PSOC

View in Field Guide | View Predicted Models | View Range Maps

Potential Species of Concern - Native Species Global: **G5** State: **S3S4** USFWS: **MBTA** PIF: **3**

Predicted Models: L 57% Low (inductive)

M - Townsend's Big-eared Bat *(Corynorhinus townsendii)* SOC

View in Field Guide | View Predicted Models | View Range Maps

Species of Concern - Native Species Global: **G4** State: **S3** USFS: **Sensitive - Known in Forests (LOLO)** BLM: **SENSITIVE** FWP SWAP: **SGCN3**

Predicted Models: L 50% Low (inductive)

B - Pinyon Jay *(Gymnorhinus cyanocephalus)* SOC

View in Field Guide | View Predicted Models | View Range Maps

Species of Concern - Native Species Global: **G3** State: **S3** USFWS: **MBTA; BCC10; BCC17** FWP SWAP: **SGCN3**

Predicted Models: L 50% Low (inductive)

V - Astragalus barrii *(Barr's Milkvetch)* SOC

View in Field Guide | View Predicted Models | View Range Maps

Species of Concern - Native Species Global: **G3G4** State: **S3** Plant Threat Score: **Medium - Low** CCVI: **Highly Vulnerable**

Predicted Models: L 50% Low (inductive)

B - American Bittern *(Botaurus lentiginosus)* SOC

View in Field Guide | View Predicted Models | View Range Maps

Species of Concern - Native Species Global: **G5** State: **S3B** USFWS: **MBTA** BLM: **SENSITIVE** FWP SWAP: **SGCN3** PIF: **3**

Predicted Models: L 50% Low (inductive)

B - Black-billed Cuckoo *(Coccyzus erythropthalmus)* SOC

View in Field Guide | View Predicted Models | View Range Maps

Species of Concern - Native Species Global: **G5** State: **S3B** USFWS: **MBTA; BCC11; BCC17** BLM: **SENSITIVE** FWP SWAP: **SGCN3, SGIN** PIF: **2**

Predicted Models: L 50% Low (inductive)

B - Dickcissel *(Spiza americana)* PSOC

View in Field Guide | View Predicted Models | View Range Maps

Potential Species of Concern - Native Species Global: **G5** State: **S4B** USFWS: **MBTA**

Predicted Models: L 50% Low (inductive)

I - Bombus suckleyi *(Suckley's Cuckoo Bumble Bee)* SOC

View in Field Guide | View Predicted Models | View Range Maps

Species of Concern - Native Species Global: **G2G3** State: **S1** USFWS: **P**

Predicted Models: L 43% Low (inductive)

V - Cyperus schweinitzii *(Schweinitz's Flatsedge)* SOC

View in Field Guide | View Predicted Models | View Range Maps

Species of Concern - Native Species Global: **G5** State: **S2** Plant Threat Score: **Low**

Predicted Models: L 43% Low (inductive)

V - Elodea bifoliata *(Long-sheath Waterweed)* SOC

View in Field Guide | View Predicted Models | View Range Maps

Species of Concern - Native Species Global: **G4G5** State: **S2?** Plant Threat Score: **No Known Threats**

Predicted Models: L 43% Low (inductive)

M - Eastern Red Bat *(Lasiurus borealis)* SOC

View in Field Guide | View Predicted Models | View Range Maps

Species of Concern - Native Species Global: **G3G4** State: **S3B** BLM: **SENSITIVE**

Predicted Models: L 43% Low (inductive)

M - Swift Fox *(Vulpes velox)* SOC

View in Field Guide | View Predicted Models | View Range Maps

Species of Concern - Native Species Global: **G3** State: **S3** BLM: **SENSITIVE** FWP SWAP: **SGCN3**

Predicted Models: L 36% Low (inductive)

M - Pallid Bat *(Antrozous pallidus)* SOC

View in Field Guide | View Predicted Models | View Range Maps

Species of Concern - Native Species Global: **G4** State: **S3** BLM: **SENSITIVE** FWP SWAP: **SGCN3**

Predicted Models: L 36% Low (inductive)

B - Baird's Sparrow *(Centronyx bairdii)* SOC

View in Field Guide | View Predicted Models | View Range Maps

Species of Concern - Native Species Global: **G4** State: **S3B** USFWS: **MBTA; BCC11; BCC17** BLM: **SENSITIVE** FWP SWAP: **SGCN3** PIF: **1**

Predicted Models: L 36% Low (inductive)

B - Great Blue Heron *(Ardea herodias)* SOC

View in Field Guide | View Predicted Models | View Range Maps

Species of Concern - Native Species Global: **G5** State: **S3** USFWS: **MBTA** FWP SWAP: **SGCN3**

Predicted Models: L 36% Low (inductive)

B - Red-headed Woodpecker *(Melanerpes erythrocephalus)* SOC

View in Field Guide | View Predicted Models | View Range Maps

Species of Concern - Native Species Global: **G5** State: **S3B** USFWS: **MBTA; BCC11; BCC17** BLM: **SENSITIVE** FWP SWAP: **SGCN3** PIF: **2**

Predicted Models: L 29% Low (inductive)

V - Senecio integerrimus var. scribneri *(Scribner's Ragwort)* SOC

View in Field Guide | View Predicted Models | View Range Maps

Species of Concern - Native Species Global: **G5T2T3** State: **S2S3** Plant Threat Score: **No Known Threats** CCVI: **Less Vulnerable**

Predicted Models: L 21% Low (inductive)

B - Sprague's Pipit *(Anthus spragueii)* SOC

View in Field Guide | View Predicted Models | View Range Maps

Species of Concern - Native Species Global: **G3G4** State: **S3B** USFWS: **MBTA; BCC11; BCC17** BLM: **SENSITIVE** FWP SWAP: **SGCN3** PIF: **1**

Predicted Models: L 14% Low (inductive)

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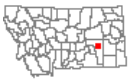

Latitude	Longitude
46.36283	-106.48956
46.42386	-106.59180

Structured Surveys

Summarized by: **Thoeny NHP** *(Custom Area of Interest)*

The Montana Natural Heritage Program (MTNHP) records information on the locations where more than 80 different types of well-defined repeatable survey protocols capable of detecting an animal species or suite of animal species have been conducted by state, federal, tribal, university, or private consulting biologists. Examples of structured survey protocols tracked by MTNHP include: visual encounter and dip net surveys for pond breeding amphibians, point counts for birds, call playback surveys for selected bird species, visual surveys of migrating raptors, kick net stream reach surveys for macroinvertebrates, visual encounter cover object surveys for terrestrial mollusks, bat acoustic or mist net surveys, pitfall and/or snap trap surveys for small terrestrial mammals, track or camera trap surveys for large mammals, and trap surveys for turtles. Whenever possible, photographs of survey locations are stored in MTNHP databases.

MTNHP does not typically manage information on structured surveys for plants; surveys for invasive species may be a future exception.

Within the report area you have requested, structured surveys are summarized by the number of each type of structured survey protocol that has been conducted, the number of species detections/observations resulting from these surveys, and the most recent year a survey has been conducted.

B-Raptor nest *(Raptor Nest Survey)*	**Survey Count**: 2	**Obs Count**: 2	**Recent Survey**: 2015
B-Sage Grouse Lek *(Greater Sage Grouse Lek Survey)*	**Survey Count**: 12	**Obs Count**: 2	**Recent Survey**: 2023
B-Winter Breeding Owl *(Late Winter Breeding Owl Survey)*	**Survey Count**: 4	**Obs Count**: 4	**Recent Survey**: 2014
M-Prairie Dog Flight *(Prairie Dog Town Flight Survey)*	**Survey Count**: 32	**Obs Count**: 13	**Recent Survey**: 2011
M-Prairie Dog Ground *(Prairie Dog Town Ground Survey)*	**Survey Count**: 8	**Obs Count**: 7	**Recent Survey**: 2010

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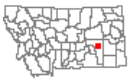

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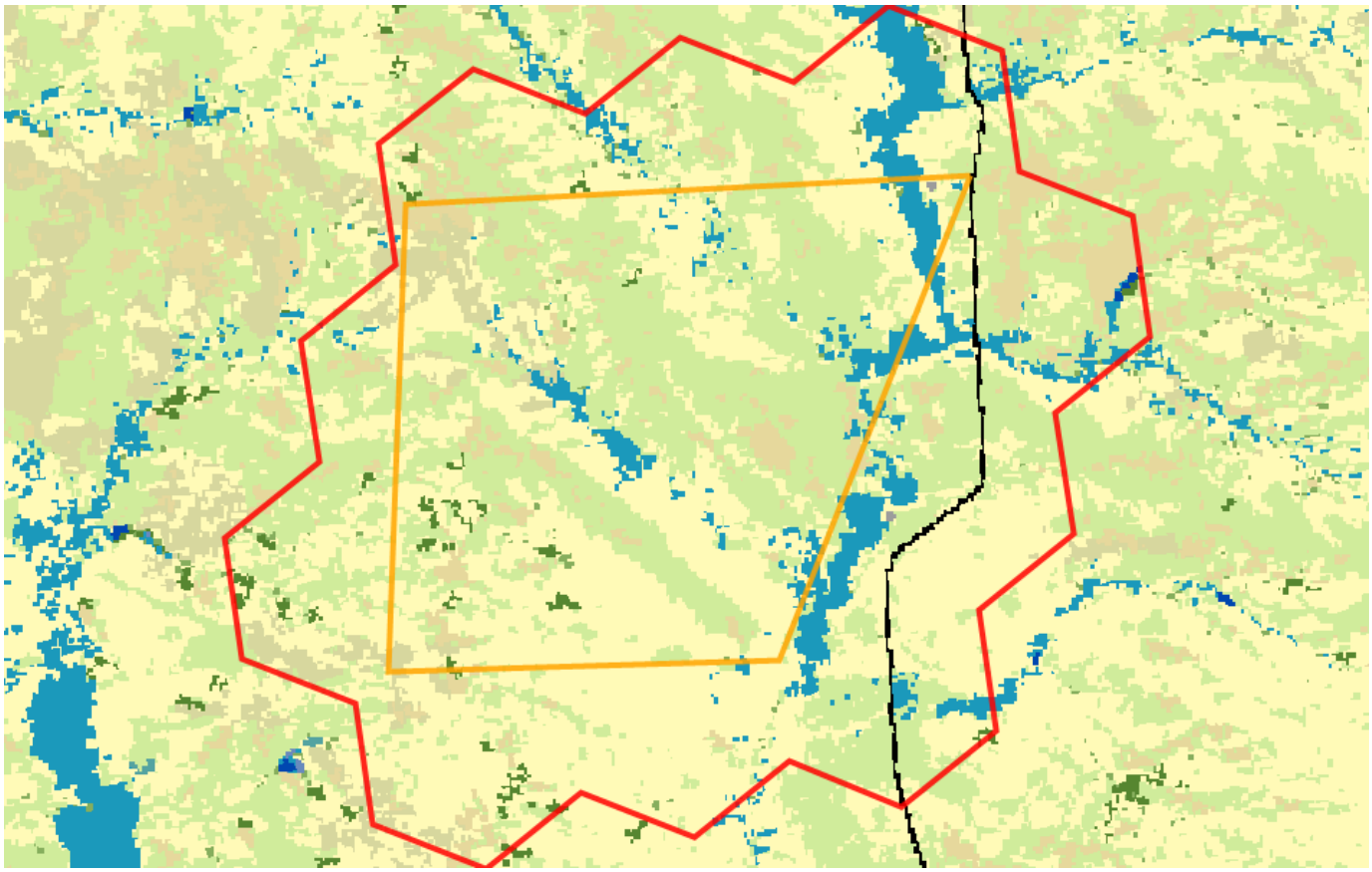
Land Cover

Summarized by: **Thoeny NHP** *(Custom Area of Interest)*



46% (*4,073 Acres*)

Shrubland, Steppe and Savanna Systems

Sagebrush Steppe

Big Sagebrush Steppe

This widespread ecological system occurs throughout much of central Montana, and north and east onto the western fringe of the Great Plains. In central Montana, where this system occurs on both glaciated and non-glaciated landscapes, it differs slightly, with more summer rain than winter precipitation and more precipitation annually. Throughout its distribution, soils are typically deep and non-saline, often with a microphytic crust. This shrub-steppe is dominated by perennial grasses and forbs with greater than 25% cover. Overall shrub cover is less than 10 percent. In Montana and Wyoming, stands are more mesic, with more biomass of grass, and have less shrub diversity than stands farther to the west, and 50 to 90% of the occurrences are dominated by Wyoming big sagebrush with western wheatgrass (*Pascopyrum smithii*). Japanese brome (*Bromus japonicus*) and cheatgrass (*Bromus tectorum*) are indicators of disturbance, but cheatgrassis typically not as abundant as in the Intermountain West, possibly due to a colder climate. The natural fire regime of this ecological system maintains a patchy distribution of shrubs, preserving the steppe character. Shrubs may increase following heavy grazing and/or with fire suppression. In central and eastern Montana, complexes of prairie dog towns are common in this ecological system.

37% (*3,321 Acres*)

Grassland Systems

Lowland/Prairie Grassland

Great Plains Mixedgrass Prairie

The system covers much of the eastern two-thirds of Montana, occurring continuously for hundreds of square kilometers, interrupted only by wetland/riparian areas or sand prairies. Soils are primarily fine and medium-textured. The growing season averages 115 days, ranging from 100 days on the Canadian border to 130 days on the Wyoming border. Climate is typical of mid-continental regions with long severe winters and hot summers. Grasses typically comprise the greatest canopy cover, and western wheatgrass (*Pascopyrum smithii*) is usually dominant. Other species include thickspike wheatgrass (*Elymus lanceolatus*), green needlegrass (*Nassella viridula*), blue grama (*Bouteloua gracilis*), and needle and thread (*Hesperostipa comata*). Near the Canadian border in north-central Montana, this system grades into rough fescue (*Festuca campestris)* and Idaho fescue (*Festuca idahoensis*) grasslands. Remnants of shortbristle needle and thread *(Hesperostipa curtiseta)* dominated vegetation are found in northernmost Montana and North Dakota, and are associated with productive sites, now mostly converted to farmland. Forb diversity is typically high. In areas of southeastern and central Montana where sagebrush steppe borders the mixed grass prairie, common plant associations include Wyoming big sagebrush-western wheatgrass (*Artemisia tridentata* ssp. *wyomingensis/ Pascopyrum smithii*). Fire and grazing are the primary drivers of this system. Drought can also impact it, in general favoring the shortgrass component at the expense of the mid-height grasses. With intensive grazing, cool season exotics such as Kentucky bluegrass (*Poa pratensis*), smooth brome (*Bromus inermis*), and Japanese brome (*Bromus japonicus*) increase in dominance; both of these rhizomatous species have been shown to markedly decrease species diversity. Previously cultivated acres that have been re-vegetated with non-native plants have been transformed into associations such as Kentucky bluegrass (*Poa pratensis*)/western wheatgrass *(Pascopyrum smithii)* or into pure crested wheatgrass (*Agropyron cristatum)* stands.

6% (*567 Acres*)

Wetland and Riparian Systems
Floodplain and Riparian

Great Plains Riparian

This system is associated with perennial to intermittent or ephemeral streams throughout the northwestern Great Plains. In Montana, it occurs along smaller tributaries of the Yellowstone and Missouri rivers, as well as tributaries to the large floodplain rivers that feed them (e.g. the Milk, Marias, Musselshell, Powder, Clark's Fork Yellowstone, Tongue, etc). In areas adjacent to the mountain ranges of central and southeastern Montana, and near the Rocky Mountain Front, it grades into Rocky Mountain Lower Montane-Foothill Riparian Woodland and Shrubland systems. This system is found on alluvial soils in highly variable landscape settings, from confined, deep cut ravines to wide, braided streambeds. Channel migration occurs in less-confined areas, but within a more narrow range than would occur in broad, alluvial floodplains. Typically, the rivers are wadeable by mid-summer.

The primary inputs of water to these systems include groundwater discharge, overland flow, and subsurface interflow from the adjacent upland. Flooding is the key ecosystem process, creating suitable sites for seed dispersal and seedling establishment, and controlling vegetation succession. Communities within this system range from riparian forests and shrublands to tallgrass wet meadows and gravel/sand flats. Dominant species are similar to those found in the Great Plains Floodplain System. In the western part of the system's range in Montana, the dominant overstory species is black cottonwood (*Populus balsamifera ssp. trichocarpa*) with narrowleaf cottonwood *(Populus angustifolia)* and Plains cottonwood (*Populus deltoides)* occurring as co-dominants in the riparian/floodplain interface near the mountains. Further east, narrowleaf cottonwood and Plains cottonwood become dominant. In wetter systems, the understory is typically willow (*Salix spp*.) and redosier dogwood (*Cornus stolonifera*) with graminoids such as western wheatgrass (*Pascopyrum smithii*) and forbs like American licorice (*Glycyrrhiza lepidota*). In areas where the channel is incised, the understory may be dominated by big sagebrush (*Artemisia tridentata*) or silver sagebrush (*Artemisia cana*). Like floodplain systems, riparian systems are often subjected to overgrazing and/or agriculture and can be heavily degraded, with salt cedar (*Tamarix ramosissima*) and Russian olive (*Eleagnus angustifolia*) replacing native woody vegetation and regrowth. Groundwater depletion and lack of fire have resulted in additional species changes.

6% (*555 Acres*)

Sparse and Barren Systems
Bluff, Badland and Dune

Great Plains Badlands

The Western Great Plains Badlands ecological system occurs within the mixed grass and sand prairie regions of eastern and southeastern Montana, where the land lies well above or below its local base level, shaped by the carving action of streams, erosion, and erosible parent material. It is easily recognized by its rugged, eroded, and often colorful land formations, and the relative absence of vegetative cover. In those areas with vegetation, species can include scattered individuals of many dryland shrubs or herbaceous taxa, including curlycup gumweed (*Grindelia squarrosa*), threadleaf snakeweed (*Gutierrezia sarothrae*) (especially with overuse and grazing), greasewood (*Sarcobatus vermiculatus*), Gardner's saltbush (*Atriplex gardneri*), buckwheat (*Eriogonum* species), plains muhly (*Muhlenbergia cuspidata*), bluebunch wheatgrass (*Pseudoroegneria spicata*), and Hooker's sandwort (*Arenaria hookeri*). Patches of sagebrush (*Artemisia* spp.) can also occur. Climate is typical of mid continental regions with long severe winters and warm summers. Precipitation ranges from 7 to 14 inches per year, with two-thirds of the precipitation falling during the summer, and a third falling in the spring. The sedimentary parent material of exposed rocks and the resultant eroded clay soils are derived from Cretaceous sea beds and are often fossil-rich. Dominant soil types are in the order Entisols. These mineral soils are found primarily on uplands, slopes, and creek bottoms and are easily erodible. The growing season is short, averaging 115 days, with a range from 100 days on the Canadian border to 130 days on the Wyoming border. Land use is limited, except for off-highway vehicle recreation and incidental grazing.

3% (*266 Acres*)

Grassland Systems
Lowland/Prairie Grassland

Great Plains Sand Prairie

The sand prairies constitute a very unique system within the western Great Plains. The unifying and controlling feature for this system is that coarse-textured soils predominate and the dominant grasses are well-adapted to this condition. In the northwestern portion of the system's range, stand size corresponds to the area of exposed caprock sandstone, and small patches predominate, but larger patches are found embedded in the encompassing Great Plains Mixed Grass Prairie, and usually occupy higher positions in local landscapes where former caprock formations have eroded into more subdued and planar topography. In most of eastern Montana, substrates supporting this system have weathered in place from sandstone caprock. Soils can be relatively thin or deep due to varying amounts of downslope movement of weathered sands. Needle and thread (*Hesperostipa comata*) is the dominant grass species. Other frequent species include little bluestem (*Schizachyrium scoparium*), often occurring with threadleaf sedge (*Carex filifolia*) and dominating both sandy sites and actively eroding sites. Prairie sandreed (*Calamovilfa longifolia*), sand bluestem (*Andropogon hallii*) and big bluestem (*Andropogon gerardii*) are sporadically distributed and found generally on the coarsest-textured sands. Other graminoids include bluebunch wheatgrass (*Pseudoroegneria spicata*), sun sedge (*Carex inops ssp. heliophila*), and purple threeawn (*Aristida purpurea*). Characteristic forbs differ by occurrence, but species of scurf pea (*Psoralidium* species) and Indian breadroot (*Pediomelum*) species are common. Communities of silver sage (*Artemisia cana* ssp. *cana*) or skunkbush sumac (*Rhus trilobata*) can occur within this system. Wind erosion, fire and grazing constitute the other major dynamic processes that can influence this system.

Additional Limited Land Cover

1% (*76 Acres*) Great Plains Ponderosa Pine Woodland and Savanna

1% (*56 Acres*) Other Roads

<1% (*30 Acres*) Great Plains Wooded Draw and Ravine

<1% (*4 Acres*) Open Water

<1% (*3 Acres*) Low Intensity Residential

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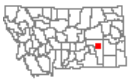

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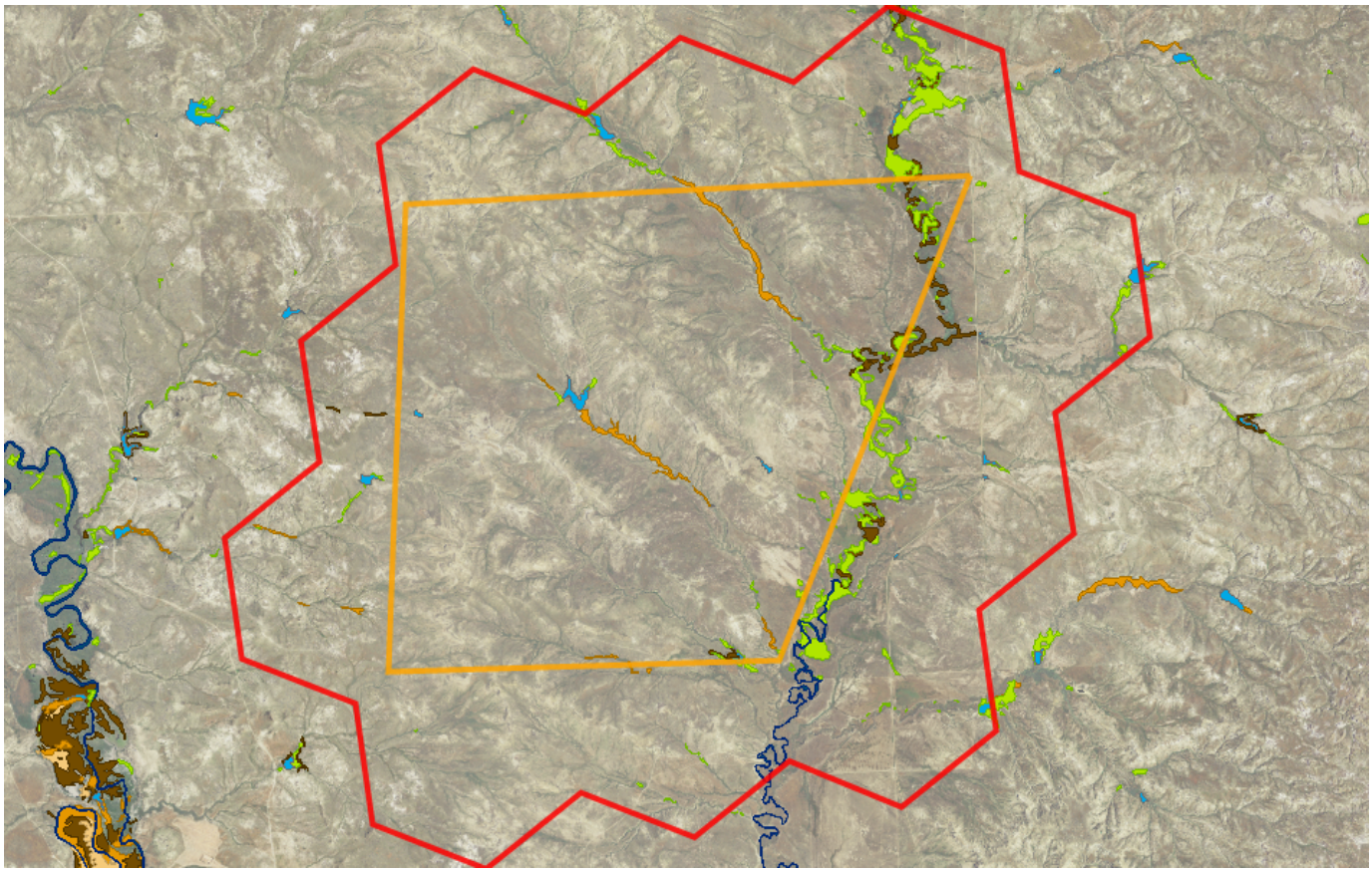
Wetland and Riparian

Summarized by: **Thoeny NHP** *(Custom Area of Interest)*



Wetland and Riparian Mapping

P - Palustrine

AB - Aquatic Bed

F - Semipermanently Flooded	22 Acres	
(no modifier)	**1 Acres**	**PABF**
h - Diked/Impounded	**21 Acres**	**PABFh**

P - Palustrine, AB - Aquatic Bed
Wetlands with vegetation growing on or below the water surface for most of the growing season.

US - Unconsolidated Shore

C - Seasonally Flooded	<1 Acres	
(no modifier)	**<1 Acres**	**PUSC**
h - Diked/Impounded	**<1 Acres**	**PUSCh**

P - Palustrine, US - Unconsolidated Shore
Wetlands with less than 75% areal cover of stones, boulders, or bedrock. AND with less than 30% vegetative cover AND the wetland is irregularly exposed due to seasonal or irregular flooding and subsequent drying.

EM - Emergent

A - Temporarily Flooded	111 Acres	
(no modifier)	**91 Acres**	**PEMA**
h - Diked/Impounded	**20 Acres**	**PEMAh**
C - Seasonally Flooded	26 Acres	
(no modifier)	**21 Acres**	**PEMC**
h - Diked/Impounded	**5 Acres**	**PEMCh**
x - Excavated	**<1 Acres**	**PEMCx**

P - Palustrine, EM - Emergent
Wetlands with erect, rooted herbaceous vegetation present during most of the growing season.

R - Riverine (Rivers)

4 - Intermittent

SB - Stream Bed

C - Seasonally Flooded	12 Acres	
(no modifier)	**12 Acres**	**R4SBC**

R - Riverine (Rivers), 4 - Intermittent, SB - Stream Bed
Active channel that contains periodic water flow.

Rp - Riparian

1 - Lotic

SS - Scrub-Shrub

(no modifier)	**27 Acres**	**Rp1SS**

Rp - Riparian, 1 - Lotic, SS - Scrub-Shrub
This type of riparian area is dominated by woody vegetation that is less than 6 meters (20 feet) tall. Woody vegetation includes tree saplings and trees that are stunted due to environmental conditions.

FO - Forested
(no modifier)

46 Acres **Rp1FO**

Rp - Riparian, 1 - Lotic, FO - Forested
This riparian class has woody vegetation that is greater than 6 meters (20 feet) tall.

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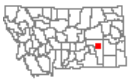

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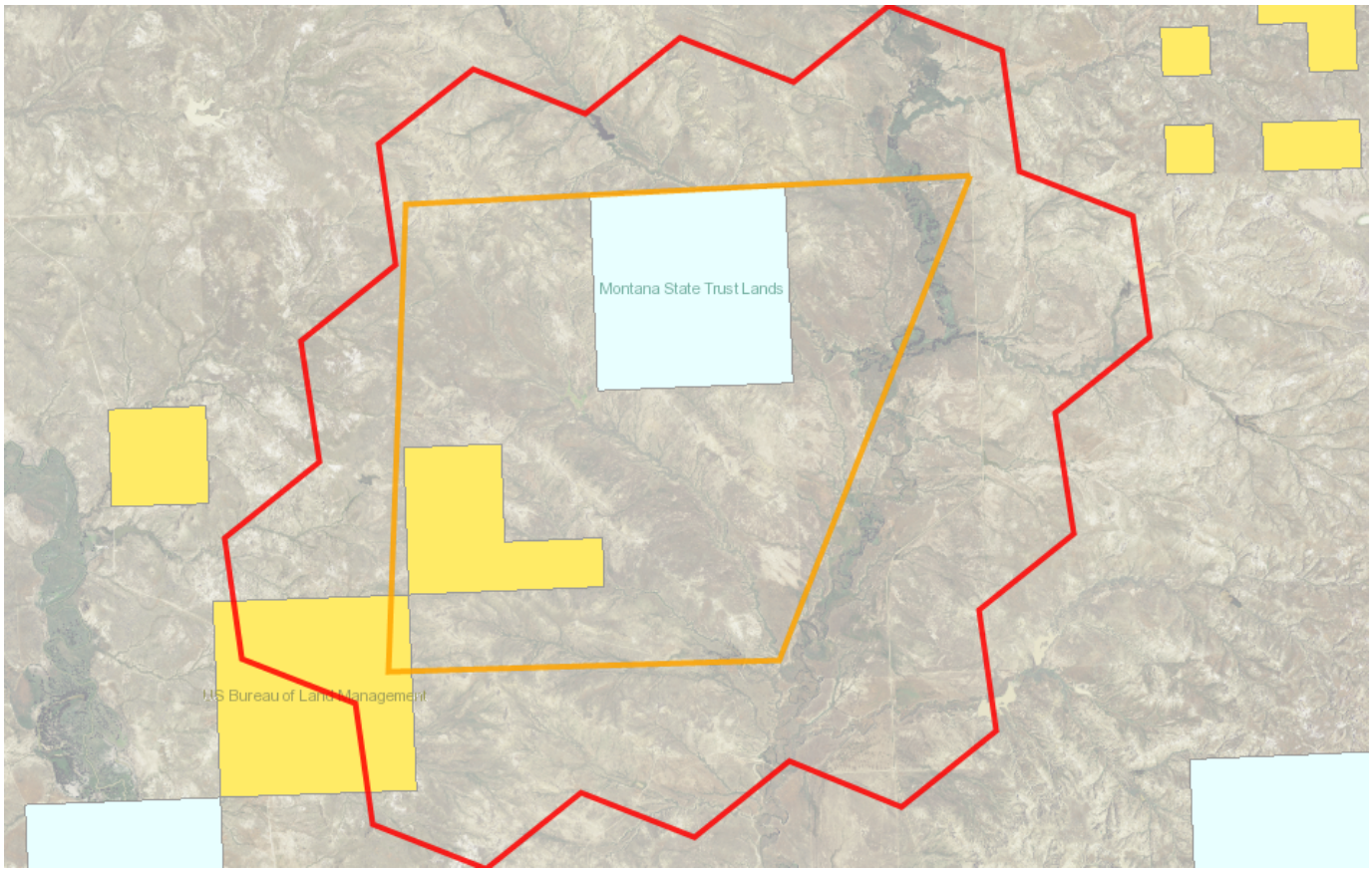
Land Management

Summarized by: **Thoeny NHP** *(Custom Area of Interest)*



Land Management Summary

	Ownership	Tribal	Easements	Other Boundaries (possible overlap)
Public Lands	1,293 Acres (14%)			
Federal	656 Acres (7%)			
US Bureau of Land Management	656 Acres (7%)			
BLM Owned	656 Acres (7%)			
State	637 Acres (7%)			
Montana State Trust Lands	637 Acres (7%)			
MT State Trust Owned	637 Acres (7%)			
Private Lands or Unknown Ownership	7,657 Acres (86%)			

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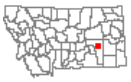

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Biological Reports

Summarized by: **Thoeny NHP** *(Custom Area of Interest)*

Within the report area you have requested, citations for all reports and publications associated with plant or animal observations in Montana Natural Heritage Program (MTNHP) databases are listed and, where possible, links to the documents are included.

The MTNHP plans to include reports associated with terrestrial and aquatic communities in the future as allowed for by staff resources. If you know of reports or publications associated with species or biological communities within the report area that are not shown in this report, please let us know: mtnhp@mt.gov

No Biological Reports were found in the selected area

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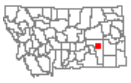
Legend

Model Icons	Habitat Icons	Range Icons
N Suitable (native range)	C Common	N Non-native
O Optimal Suitability	O Occasional	
M Moderate Suitability		
L Low Suitability		
I Suitable (introduced range)		

Num Obs
Count of obs with 'good precision' (<=1000m)
+ indicates additional 'poor precision' obs (1001m-10,000m)



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Invasive and Pest Species

Summarized by: **Thoeny NHP** *(Custom Area of Interest)*

	# Obs	Predicted Model	Range

Aquatic Invasive Species

V - Nymphaea odorata *(American Water-lily)* **AIS** — N

View in Field Guide | View Predicted Models | View Range Maps
Aquatic Invasive Species - Non-native Species Global: **G5** State: **SNA**
Predicted Models: I 71% Suitable (introduced range) (deductive)

Noxious Weeds: Priority 1A

V - Isatis tinctoria *(Dyer's Woad)* **N1A** — N

View in Field Guide | View Predicted Models | View Range Maps
Noxious Weed: Priority 1A - Non-native Species Global: **GNR** State: **SNA**
Predicted Models: L 29% Low (inductive)

Noxious Weeds: Priority 2A

V - Ventenata dubia *(Ventenata)* **N2A** — N

View in Field Guide | View Predicted Models | View Range Maps
Noxious Weed: Priority 2A - Non-native Species Global: **GNR** State: **SNA**
Predicted Models: L 100% Low (inductive)

Noxious Weeds: Priority 2B

V - Acroptilon repens *(Russian Knapweed)* **N2B** — N

View in Field Guide | View Predicted Models | View Range Maps
Noxious Weed: Priority 2B - Non-native Species Global: **GNR** State: **SNA**
Predicted Models: M 7% Moderate (inductive), L 57% Low (inductive)

V - Euphorbia virgata *(Leafy Spurge)* **N2B** — N

View in Field Guide | View Predicted Models | View Range Maps
Noxious Weed: Priority 2B - Non-native Species Global: **GNR** State: **SNA**
Predicted Models: L 100% Low (inductive)

V - Tamarix ramosissima *(Salt Cedar)* **N2B** — N

View in Field Guide | View Predicted Models | View Range Maps
Noxious Weed: Priority 2B - Non-native Species Global: **GNR** State: **SNA**
Predicted Models: L 100% Low (inductive)

V - Cirsium arvense *(Canada Thistle)* **N2B** — N

View in Field Guide | View Predicted Models | View Range Maps
Noxious Weed: Priority 2B - Non-native Species Global: **G5** State: **SNA**
Predicted Models: L 93% Low (inductive)

V - Convolvulus arvensis *(Field Bindweed)* **N2B** — N

View in Field Guide | View Predicted Models | View Range Maps
Noxious Weed: Priority 2B - Non-native Species Global: **GNR** State: **SNA**
Predicted Models: L 36% Low (inductive)

V - Centaurea stoebe *(Spotted Knapweed)* **N2B** — N

View in Field Guide | View Predicted Models | View Range Maps
Noxious Weed: Priority 2B - Non-native Species Global: **GNR** State: **SNA**
Predicted Models: L 21% Low (inductive)

Regulated Weeds: Priority 3

V - Bromus tectorum *(Cheatgrass)* **R3** — N

View in Field Guide | View Predicted Models | View Range Maps
Regulated Weed: Priority 3 - Non-native Species Global: **GNR** State: **SNA**
Predicted Models: L 100% Low (inductive)

V - Elaeagnus angustifolia *(Russian Olive)* **R3** — N

View in Field Guide | View Predicted Models | View Range Maps
Regulated Weed: Priority 3 - Non-native Species Global: **GNR** State: **SNA**
Predicted Models: L 100% Low (inductive)

Biocontrol Species

I - Mecinus janthiniformis *(Dalmatian Toadflax Stem-boring Weevil)* **BIOCNTRL** — N

View in Field Guide | View Predicted Models | View Range Maps
Biocontrol Species - Non-native Species Global: **GNR** State: **SNA**
Predicted Models: M 14% Moderate (inductive), L 86% Low (inductive)

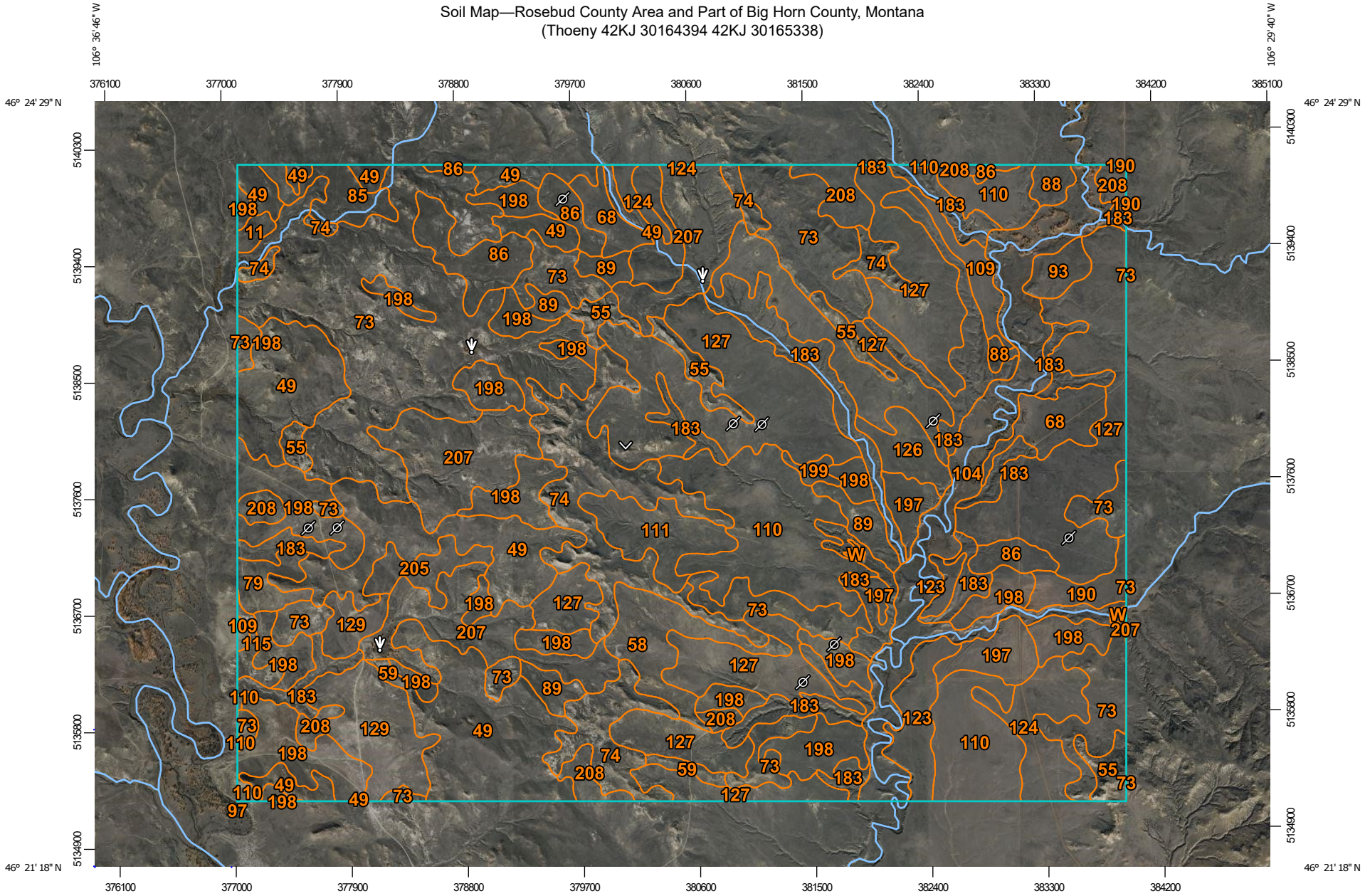
I - Aphthona lacertosa *(Brown-legged Leafy Spurge Flea Beetle)* **BIOCNTRL**

View in Field Guide **View Predicted Models** **View Range Maps**

Biocontrol Species - Non-native Species Global: **GNR** State: **SNA**

Predicted Models: M 7% Moderate (inductive), L 29% Low (inductive)

Soil Map—Rosebud County Area and Part of Big Horn County, Montana
(Thoeny 42KJ 30164394 42KJ 30165338)



Map Scale: 1:41,600 if printed on A landscape (11" x 8.5") sheet.

N

Meters
0 500 1000 2000 3000

Feet
0 2000 4000 8000 12000

Map projection: Web Mercator Corner coordinates: WGS84 Edge tics: UTM Zone 13N WGS84

MAP LEGEND

Area of Interest (AOI)
- Area of Interest (AOI)

Soils
- Soil Map Unit Polygons
- Soil Map Unit Lines
- Soil Map Unit Points

Special Point Features
- Blowout
- Borrow Pit
- Clay Spot
- Closed Depression
- Gravel Pit
- Gravelly Spot
- Landfill
- Lava Flow
- Marsh or swamp
- Mine or Quarry
- Miscellaneous Water
- Perennial Water
- Rock Outcrop
- Saline Spot
- Sandy Spot
- Severely Eroded Spot
- Sinkhole
- Slide or Slip
- Sodic Spot
- Spoil Area
- Stony Spot
- Very Stony Spot
- Wet Spot
- Other
- Special Line Features

Water Features
- Streams and Canals

Transportation
- Rails
- Interstate Highways
- US Routes
- Major Roads
- Local Roads

Background
- Aerial Photography

MAP INFORMATION

The soil surveys that comprise your AOI were mapped at 1:24,000.

Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service
Web Soil Survey URL:
Coordinate System: Web Mercator (EPSG:3857)

Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Rosebud County Area and Part of Big Horn County, Montana
Survey Area Data: Version 22, Sep 17, 2024

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Date(s) aerial images were photographed: Sep 26, 2021—Oct 10, 2021

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

Map Unit Legend

Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
11	Assinniboine fine sandy loam, 2 to 8 percent slopes	14.1	0.2%
49	Busby-Twilight-Blacksheep fine sandy loams, 8 to 35 percent slopes	850.1	10.1%
55	Cabbart-Rock outcrop-Yawdim complex, warm, 15 to 70 percent slopes	126.4	1.5%
58	Cambeth-Cabbart silt loams, 4 to 15 percent slopes	120.1	1.4%
59	Cambeth-Cabbart complex, 8 to 25 percent slopes, dissected	21.4	0.3%
68	Davidell loam, 2 to 4 percent slopes	116.6	1.4%
73	Delpoint-Yamacall-Cabbart loams, 8 to 25 percent slopes	1,255.4	14.9%
74	Delpoint-Cabbart-Yawdim complex, 25 to 70 percent slopes	442.1	5.3%
79	Evanston loam, 0 to 4 percent slopes	46.0	0.5%
85	Foreleft loam, 2 to 8 percent slopes	62.1	0.7%
86	Foreleft-Gerdrum complex, 2 to 8 percent slopes	160.5	1.9%
88	Gerdrum clay loam, 0 to 2 percent slopes	31.5	0.4%
89	Gerdrum clay loam, 2 to 8 percent slopes	99.2	1.2%
93	Gerdrum-Vanda silty clays, 0 to 4 percent slopes	37.0	0.4%
97	Harlem silty clay loam, 0 to 2 percent slopes, occasionally flooded	0.0	0.0%
104	Havre, Harlake, and Glendive soils, channeled, 0 to 2 percent slopes	419.8	5.0%
109	Kobar silty clay loam, 0 to 2 percent slopes	51.5	0.6%
110	Kobase silty clay loam, warm, 2 to 8 percent slopes	502.1	6.0%
111	Kobar silty clay loam, 8 to 15 percent slopes	106.0	1.3%

Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
115	Kobar-Cabbart-Yawdim complex, 8 to 25 percent slopes	22.4	0.3%
123	Lonna silt loam, 0 to 2 percent slopes	100.1	1.2%
124	Lonna silt loam, 2 to 8 percent slopes	135.1	1.6%
126	Lonna silty clay loam, 0 to 2 percent slopes	58.2	0.7%
127	Lonna silty clay loam, 2 to 8 percent slopes	1,376.3	16.4%
129	Lonna-Alona silt loams, 2 to 8 percent slopes	188.2	2.2%
183	Ustic Torriorthents, 15 to 35 percent slopes	550.5	6.5%
190	Vanstel loam, 2 to 8 percent slopes	47.8	0.6%
197	Yamacall loam, warm, 0 to 2 percent slopes	105.7	1.3%
198	Yamacall loam, warm, 2 to 8 percent slopes	676.7	8.1%
199	Yamacall loam, warm, 8 to 15 percent slopes	13.7	0.2%
205	Yamacall-Busby complex, 2 to 8 percent slopes	54.9	0.7%
207	Yamac-Cabbart loams, 8 to 25 percent slopes	476.9	5.7%
208	Yamac-Delpoint loams, 4 to 15 percent slopes	129.4	1.5%
W	Water	5.9	0.1%
Totals for Area of Interest		**8,404.8**	**100.0%**

Processing Information
&
Correspondence

- Correct & Complete Letter & Technical Report
- Materials Developed by DNRC for Analysis
  - Permit: Physical & Legal Availability
  - Change: Historic Use & Adverse Effect
  - Hydrologist Reviews
- Response to Deficiency Letter
- Deficiency Letter
- Additional Documentation
- Emails
- Any other Correspondence

Processing Info & Correspondence

DNRC Water Resources
Billings Regional Office
1371 Rimtop Dr.
Billings, MT 59105-1978

April 22, 2025

Patricia & Steven Thoeny
827 Quarter Horse Road
Rosebud, MT 59347

Subject: Draft Preliminary Determination to Grant Water Right Change Application Nos. 42KJ 30164394 and 42KJ 30165338

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 Department-completed technical analyses report and 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 response is received by May 7, 2025, 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,

Veronica Corbett
Water Resource Specialist
Billings Regional Office, Montana DNRC
Veronica.Corbett@mt.gov
(406) 247-4431

DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION

GREG GIANFORTE
GOVERNOR

STATE OF MONTANA

WATER RESOURCES DIVISION-BILLINGS REGIONAL OFFICE
PHONE: (406) 247-4415
FAX: (406) 247-4416
www.dnrc.mt.gov

AIRPORT BUSINESS PARK
1371 RIMTOP DRIVE
BILLINGS, MONTANA 59105-1978

March 28, 2025

Patricia & Steven Thoeny
827 Quarter Horse Road
Rosebud, MT 59347

Subject: Correct and Complete Application for Beneficial Water Use Change Nos. 42KJ 30164394 and 42KJ 30165338

Dear Applicant,

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

The Department will issue a Draft Preliminary Determination document and Technical Analyses within 120 days of the date of this letter per §85-2-307(2)(b), MCA.

Following issuance of the Draft Preliminary Determination, you (Applicants) 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 decisions are to grant your applications or grant your applications 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 decisions are to deny your applications, the Department will adopt the Draft Preliminary Determinations as the final determinations per §85-2-307(3)(d)(ii), MCA.

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

Best,

Veronica Corbett
Water Resource Specialist
Billings Regional Office, Montana DNRC
Veronica.Corbett@mt.gov
(406) 247-4431

APPLICATION AMENDMENT FORM

ARM 36.12.1401

Form No. 655 *(Revised 01/2024)*

42KJ 30164394

Application # 42KJ 30165338

Rec'd Date JAN 29, 2025

INFORMATION

Use this form to modify an element of a permit or change application.

An applicant may modify an element of a permit or change application prior to the department's issuance of a draft preliminary determination. If the draft preliminary determination is to deny or to grant with modifications, the applicant may modify their application after the draft preliminary determination has been issued, only if they have been granted an extension of time under §85-2-307, MCA, and may only modify it one time under this provision (ARM 36.12.1401).

Modification of an element will reset the statutory timelines for application processing identified in §85-2-302 and -307, MCA. If the applicant completed a preapplication meeting and the modification does not require the department to update its technical analyses, the reduced preapplication timelines shall still apply. If the applicant completed a preapplication meeting and the modification requires the department to update any of its technical analyses, the reduced preapplication timelines shall no longer apply. In addition to resetting timelines, the priority date of a permit application will be changed to the date the last modification was made if a modification changes the nature or scope of the permit application information (ARM 36.12.1401).

Application Number 42KJ 30164394

Applicant Name Patricia R & Steven S Thoeny

Name of individual completing Form, (*If other than applicant*)

Name

Mailing Address 827 Quarter Horse Road City Rosebud State MT Zip 59347

Phone Number (406) 347-5525 Email Address spthoeny@yahoo.com

I am amending the following elements: *(please check all that apply)*

- ☐ Purpose
- ☐ Point of diversion
- ☒ Place of use
- ☐ Flow rate
- ☐ Period of diversion
- ☐ Period of use
- ☐ Volume
- ☐ Other:

Describe in detail the proposed amendment(s) checked above. Use additional sheets if necessary.

We plan to add 7 additional water tanks to an existing pipeline associated with this water right. The original application stated only 2 new tanks would be added.

Please see attached map for locations of those water tanks.

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

Printed Name Patricia R Thoeny

Applicant / Representative Signature Patricia R Thoeny **Date** 1/29/2025

Printed Name Steven S Thoeny

Applicant / Representative Signature Steve Thoeny **Date** 1/29/2025

NOTE: Form must be signed by the applicant or an individual with legal power of attorney representing applicant

Contracted Stockwater Development Project with NRCS, Quarter Sections

USDA is an equal opportunity provider, employer, and lender

THIS MAP IS FOR GRAPHICAL PURPOSES ONLY AND DOES NOT REPRESENT A LEGAL SURVEY. EVERY EFFORT IS MADE TO ENSURE DATA IS ACCURATE AND RELIABLE WITHIN THE LIMITS OF THE CURRENT STATE OF THE ART, BUT NRCS MAKES NO WARRANTY, EXPRESSED OR IMPLIED, NOR DOES DISTRIBUTION OF THIS MAP CONSTITUTE SUCH A WARRANTY.

R41E R42E

T8N T7N

Planned electric fence to create multiple pastures to support rotational grazing - cattle numbers remain the same as previously operated

Contracted New Tank T8N R41E S36 SENW 1/4

Contracted New Tank T8N R41E S35 SENE 1/4

Contracted New Tank T8N R41E S35 NWSW 1/4

Contracted New Tank T8N R41E S36 SESE 1/4

Contracted New Tank T8N R42E S31 SWSE 1/4

Contracted New Tank T7N R41E S02 NWNE 1/4

Contracted New Tank T7N R41E S02 NWSE 1/4

Contracted New Tank T7N R41E S01 NESW 1/4

S34 S35 S36 S31 S03 S02 S01 S06

Quarter Horse Rd

Horse Creek

Client(s): Steve and Pat Thoeny
Location: T08N R041E S35, 36 | T08N R42E S31 | T07N R41E S1, 2
District: ROSEBUD CONSERVATION DISTRICT
Field Office: FORSYTH
Assisted By: Tessa.Wilson
Created On: 1/29/2025

0 3,000 Feet

N

Existing Resource
- Stock Tank
- Well
- Exisitng Pipeline
- Existing Fence

Planned Implement
- Stock Tank
- Electric Fence
- Livestock Pipeline

- Section Grid (PLSS)
- PLSS_Second_Division
- Named Rivers and Streams

Surface Management by Agency
- Bureau of Land Management
- State Government

Please Note, tank locations subject to change based on final engineer design

This map uses the Montana State Plane (US Feet) projected coordinate system, North American Datum 1983. Additional data courtesy of the Montana State Library, BLM, and ESRI.

DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION

GREG GIANFORTE
GOVERNOR

STATE OF MONTANA

WATER RESOURCES DIVISION-BILLINGS REGIONAL OFFICE
PHONE: (406) 247-4415
FAX: (406) 247-4416
www.dnrc.mt.gov

AIRPORT BUSINESS PARK
1371 RIMTOP DRIVE
BILLINGS, MONTANA 59105-1978

October 16, 2024

Patricia & Steven Thoeny
827 Quarter Horse Road
Rosebud, MT 59347

Subject: Correct and Complete Application for Beneficial Water Use Change No. 42KJ 30164394

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 document and Technical Analyses within 120 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,

Veronica Corbett
Water Resource Specialist
Billings Regional Office, Montana DNRC
Veronica.Corbett@mt.gov
(406) 247-4431

Application Materials

- Work Copy
- Application
- Any information submitted with Application including maps

Application Materials

42KJ 30164394 AND 42KJ 30165338

Form 606-ST 01/2024

606-ST: APPLICATION TO CHANGE A WATER RIGHT
Additional Stock Tanks

Complete this form to add stock tanks to a water right, move existing stock tanks, or change to stock tanks from an instream direct water right. This form can only be used for water rights which have an existing stock purpose listed.

FILING FEE $400.00

This form cannot be used if the amount of water diverted from the source or the number of animal units will be increased.

RECEIVED
SEP 03 2024
DNRC-WRD-BILLINGS

FOR DEPARTMENT USE ONLY

Application No. 30164394 Basin 42KJ
Date Received 9/3/24
Time 13:20 AM / (PM)
Rec'd by HW
Fee Rec'd $ 400.00 Check No. 14236
Deposit Receipt # BLS2502948
Payor (if different from Applicant name(s)
Steve or Pat Thoeny
Refund $ _____ Date _____

35649 35648

Applicant Name Steven & Patricia Thoeny
Mailing Address 827 Quarter Horse Road City Rosebud State MT Zip 59347
Phone Numbers: Home 4063475525 Work _____ Cell _____
Email Address spthoeny@yahoo.com

Contact Person: ☑ Contact is Applicant ☐ Contact is Consultant ☐ Contact is Attorney ☐ Contact is Other

Contact Name Pat Thoeny
Mailing Address 827 Quarter Horse Road City Rosebud State MT Zip 59347
Phone Numbers: Home 4063475525 Work _____ Cell _____
Email Address spthoeny@yahoo.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. 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.*

CHANGE APPLICATION INFORMATION

This application may only be used for the following:

- A change to allow stock tanks to be added to a livestock direct from source right which does not increase the livestock use. The maximum allowable flow rate for this change will be 35 GPM.
- A change which adds additional stock tanks to an existing stock watering system and does not increase historical use.
- A change which moves stock tank locations on an existing stock watering system and does not increase historical use.

If you are adding a stock tank rather than having the animals drink from the source, you can divert water to the tank, but the diversion must shut off when the tank is full. If you will not have an automatic shut off on the tank, overflow water must be immediately directed back to the source.

If you are increasing the number of animal units using the stock watering system, please consult your regional Water Resources Office on how to proceed.

You must provide a written notice of the application to each owner of an appropriation right sharing the point of diversion or means of conveyance (canal, ditch, flume, pipeline, or other constructed waterway).

- Have you sent this notice? ◉ N/A ○ Yes ○ No *If no, your application cannot be deemed correct and complete until you have sent the notice. § 85-2-302 (4)(c), MCA*

ST.1 APPLICATION DETAILS

ST.1.A Identify the water right number(s) proposed for change:
42KJ 30115997

If you do not have a DNRC water right number, you may have an existing exempt water use. Water for stock use from groundwater sources (well or developed spring) or drinking directly from a surface water source were exempt from the general adjudication filing requirements for claims of existing water rights if they met either of the following criteria:

- For wells, the water was put to use prior to January 1, 1962, or if water was put to use between January 1, 1962, and July 1, 1973, and a notice was filed in the courthouse records.
- For stock drinking directly from the source, the water was put to use prior to July 1, 1973.

If your stock use meets one of the above criteria, complete this form and a Non-Filed Water Project Addendum. The addendum can be obtained from the DNRC Website. http://www.dnrc.mt.gov/wrd/. If your use does not meet these criteria, call the regional office serving your area.

ST.1.B How many stock tanks do you wish to add through this change? 2

ST.1.C Will the existing place of use continue to be used? yes

ST.1.D What are the number and type of stock that will be watered on the proposed stock watering system?

500 Type Cattle # _____ Type _____ # _____ Type _____

ST.1.E Place of Use: Please provide the following:

GEOCODE(S) of the place of use (17 digits) 29-1734-36-1-01-01-0000

If there are multiple places of use, list the geocode for each parcel on an attached sheet. The geocodes can be found at the County Clerk and Recorder's Office or by visiting http://svc.mt.gov/msl/mtcadastral.

LEGAL LAND DESCRIPTION: Include additional places of use on a separate sheet.

_____1/4 ____1/4 SE 1/4 Sec 36 Twp 8 (N)/S Rge 41 (E)/W County Rosebud

_____1/4 ____1/4 NW 1/4 Sec 36 Twp 8 (N)/S Rge 41 (E)/W County Rosebud

_____1/4 ____1/4 ____1/4 Sec____ Twp _____ N/S Rge _____ E/W County_____

ST.1.F Attach a narrative explaining specific details of the requested change to the water right(s) and why it is being requested. Please label attachment **ST.1.F Application Details**.

ST.1.G ( ) Yes (•) No Are you proposing to change all of the water right(s) associated with the place of use? If no, attach an explanation of why not and how those rights will be operated to ensure no increase in use. Please label attachment **ST.1.G Application Details.**

ST.1.H (•) Yes ( ) No Are you proposing to add stock tanks on State of Montana school trust land? If yes, you must include a copy of written approval from DNRC Trust Lands Management Division. A change authorization to add stock tanks on school trust land will be temporary for the duration of the lease term. Throughout this application, make clear which tanks are on school trust land. You may use the same application to add permanent stock tanks on private land and temporary stock tanks on school trust land.

ST.2 ADEQUATE DIVERSION MEANS AND OPERATION

ST.2.A How will water be diverted from the source?

(•) Well ( ) Pump ( ) Gravity Flow ( ) Other _____

ST.2.B Identify the flow rate you will be diverting: 30 GPM

ST.2.C How was the diverted flow rate determined? Well log.

ST.2.D Provide evidence to show that the flow rate will be adequate for the new/proposed system. Please label attachment **ST.2.D Adequate Diversion Means and Operation.**

ST.2.E (●) Yes ( ) No Will [illegible]peline be used to convey water to the [illegible]v tanks? If no, please explain the new means of conveyance. _____

ST.2.F Provide design plans for the proposed stock tank system from the point of diversion to the place of use (tanks). Include pump information, pipe size, pipe length, pipe material, any valves or booster pumps used, depth pipelines will be buried, etc. Please label the attachment **ST.2.F Adequate Diversion Means and Operation.**

ST.3 MAP

ST.3.A Provide a map or maps depicting the historical and proposed water system. Aerial photos may be available from DNRC, NRIS, NRCS, USGS, or other sources. Depending on the size of the project, one map showing all items listed below may be acceptable. If using one map, be sure to indicate which tanks are currently authorized and which tanks are being added via this change.

- Note the section corners, township, range, and add a north arrow to the map for all maps submitted.
- Historical Use - for each water right being changed, provide a map depicting the historical point(s) of diversion, means of conveyance, and stock tank locations.
- Proposed Use - provide a map which clearly identifies the proposed point(s) of diversion, means of conveyance, and stock tanks which are being added via this change. For partial changes, the map should reflect the entire water right including the proposed change and the remaining historical use.

ST.4 HISTORICAL USE

Historical diverted volume will be calculated using DNRC standards for the right(s) to be changed.

ST.4.A What is the historical number and type of livestock served under the water right(s) to be changed?

500 Type Cattle # _____ Type _____ # _____ Type _____

ST.4.B What is the historical diverted flow rate of your stock watering system? 30 GPM

ST.4.C How was the flow rate determined? Well Log

_____

ST.4.D Attach a description of the historical operation of the stock watering system. Include information on diversion operation, means of conveyance (size, type), booster pumps, and any control structures such as valves, discharge piping, etc. Please label attachment **ST.4.D Historical Use**

ST.5 ADVERSE EFFECT

ST. 5.A (●) Yes ( ) No Will float or shut off valves be used to control flow into the new tank(s)? If yes, attach information on what types of valves will be used and where they will be located. Please label attachment **ST.5.A Adverse Effect**.

ST.5.B If no, how will flow into the tanks be controlled? _____

ST.5.C Attach an explanation of how your diversion can be controlled to not create an adverse effect to existing water users on the source. Please label attachment **ST.5.B Adverse Effect**.

ST.6 SAGE GROUSE HABITAT PROJECT REVIEW

Required if the diversion and/or place of use are located within an area designated as sage grouse habitat, (https://sagegrouse.mt.gov).

ST.7 PROJECT COMPLETION

The Department will assign 3 years for completion of the project unless the application states otherwise. If you wish to have a different project completion period, provide an attachment that identifies the time period requested for project completion and an explanation of why this time period is necessary. Please label attachment **ST.7.A Project Completion**. If you are unable to complete the project within the time assigned, you may apply for an Extension of Time.

ST.8 AFFIDAVIT & CERTIFICAT N

All undivided interest owners must sign as applicants. Read carefully before you sign and review with legal counsel if you have any questions.

I affirm the information provided for this application is to the best of my knowledge true and correct. I also 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.

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: Steven Thoeny
Applicant Signature: Steven Thoeny. Date: 8/27/24

Printed Name: Patricia Thoeny
Applicant Signature: Patricia Thoeny Date: 8/27/24

WATER RESOURCES OFFICES

Billings: 1371 RIMTOP DR., BILLINGS MT 59105-1978
PHONE: 406-247-4415
FAX: 406-247-4416
EMAIL: DNRCBillingsWater@mt.gov
SERVING: 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
PHONE: 406-586-3136
FAX: 406-587-9726
EMAIL: DNRCBozemanWater@mt.gov
SERVING: Gallatin, Madison, and Park Counties

Glasgow: 222 6TH STREET SOUTH, PO BOX 1269, GLASGOW MT 59230-1269
PHONE: 406-228-2561
FAX: 406-228-8706
Email: DNRCGlasgowWater@mt.gov
SERVING: Daniels, Dawson, Garfield, McCone, Phillips, Richland, Roosevelt, Sheridan, Valley, and Wibaux Counties

Havre: 210 6TH AVENUE, PO BOX 1828, HAVRE MT 59501-1828
PHONE: 406-265-5516
FAX: 406-265-2225
EMAIL: DNRCHavreWater@mt.gov
SERVING: 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
SERVING: 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
FAX: 406-752-2843
EMAIL: DNRCKalispellWater@mt.gov
SERVING: Flathead, Lake, Lincoln, and Sanders Counties

Lewistown: 613 NORTHEAST MAIN ST., SUITE E, LEWISTOWN MT 59457-2020
PHONE: 406-538-7459
FAX: 406-538-7089
EMAIL: DNRCLewistownWater@mt.gov
SERVING: 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: 406-542-5889
EMAIL: DNRCMissoulaWater@mt.gov
SERVING: Granite, Mineral, Missoula, and Ravalli Counties

Steve Thoeny
827 Quarter Horse Road
Rosebud, MT 59347
406-347-5525

Application to Change A Water Right Narrative

ST.1.F Application Details
We are requesting a change because we are adding on to an existing pipeline to better water the pasture. One of the spurs to be added will cross state land in Sec36 8N 41E. Two livestock water tanks will be placed on this section.

ST.1.G Application Details
Current water right associated with this project will remain the same. There will be no additional water use for cattle as the number of cattle will not change. Other water rights for cattle use are unreliable due to being creeks and streams that don't provide water year-round. There is also a water right for another hand dug well, but that well is abandoned.

ST.2.D Adequate Diversion Means and Operation
The flow rate is currently supplying adequate water to 3 existing tanks. Since the number of livestock is not changing, the flow rate will remain the same. New 1500 gallon water tanks, complete with shut off floats on each tank, will be strategically placed to better utilize the pasture.

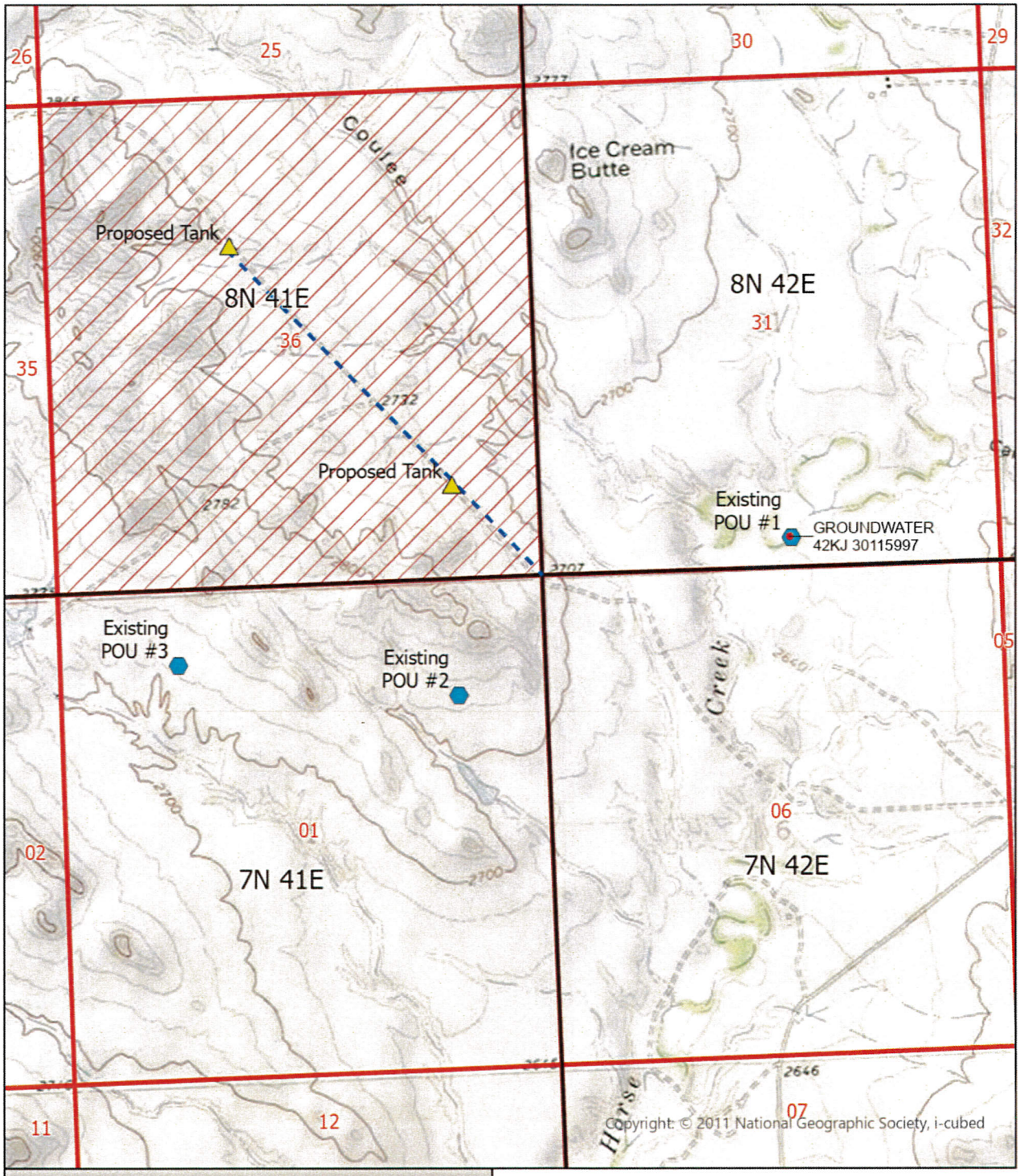
ST.2.F Adequate Diversion Means and Operation
NRCS is designing a complete plan for this project. The design is not available at this time but the plan will include a 1HP pump in the well and the pipeline will be HDP 1.5" line buried 6' deep. Brass shut off valves and brass ball valves with floats will be installed on each tank to control the water flow.

ST.4.D Historical Use
The existing pipeline was installed in the early 2000's. There were 3 tanks installed along the 1.5 miles of pipeline which is in use at this time. Since the pipeline was installed, it has been operated with a 1 HP pump in the well to supply the line. The existing tanks hold approximately 1000 gallons and all have float systems installed.

ST.5.A Adverse Effects
Brass ball shutoff valves will be installed in the pipeline by each tank so the water supply from the pipeline can be shut off to each tank. Each tank will have a brass float valve with an 8" ball float installed that will stop the flow when the tank is full of water. There is also a shut off valve at the well to completely stop the flow of water to the pipeline.

ST.5.C Adverse Effects
There is currently a shutoff valve at the well that will shut off the whole pipeline. That valve will remain in place so the pipeline can be shut off at any time.

Water Right 42KJ 30115997 With Temporary Change In Appropriation Overview



Legend

- Point Of Diversion
- Existing Tank
- Proposed Tank
- Proposed Pipeline
- Township
- Sections
- Trust Lands

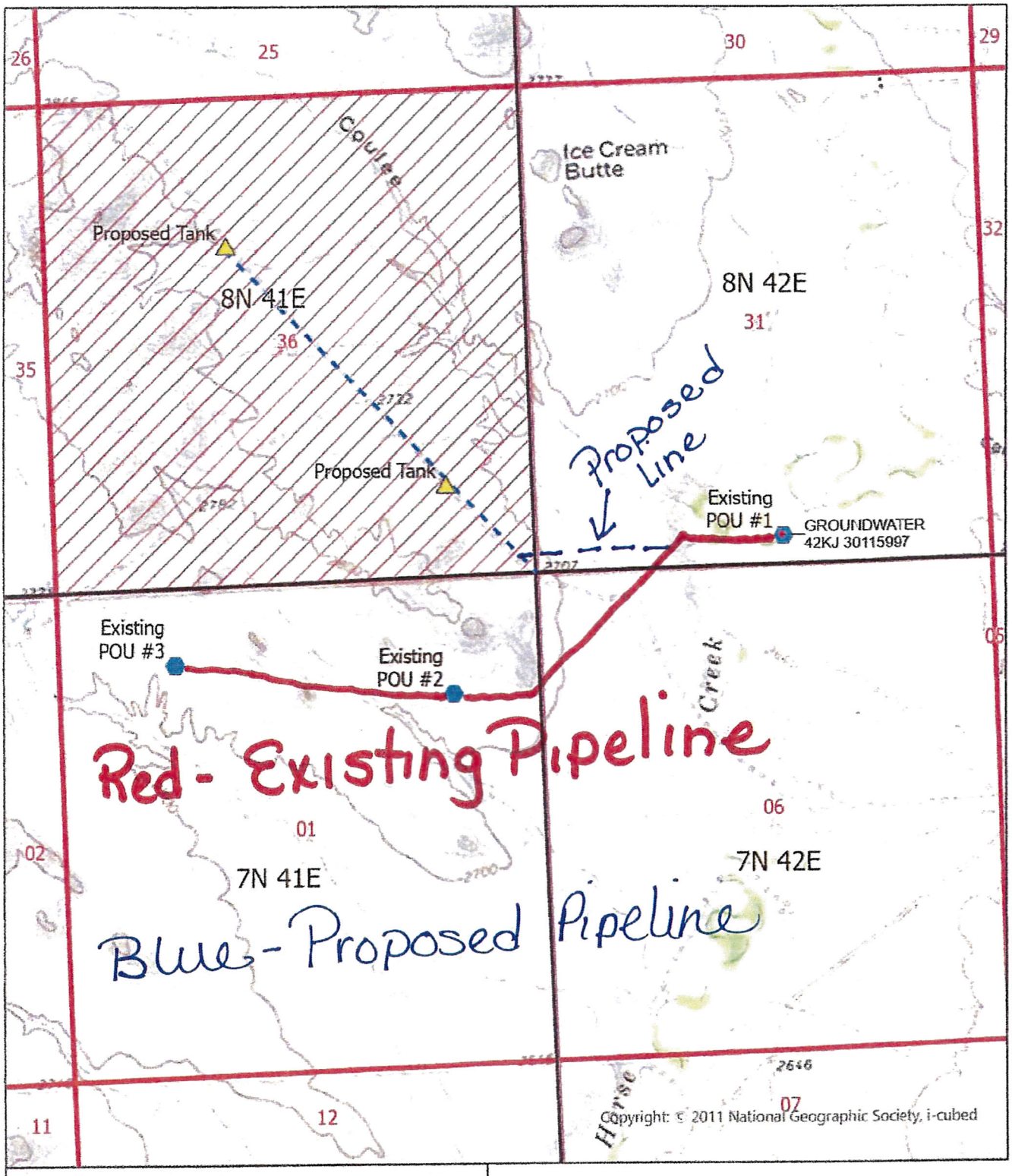
N

0 0.25 0.5 Miles

Scale: 1:18,000

Map created 7/29/2024 L. Miller
For Reference only

Water Right 42KJ 30115997 With Temporary Change In Appropriation Overview



Legend

- Point Of Diversion
- Existing Tank
- Proposed Tank
- Proposed Pipeline
- Township
- Sections
- Trust Lands

N

0 0.25 0.5 Miles

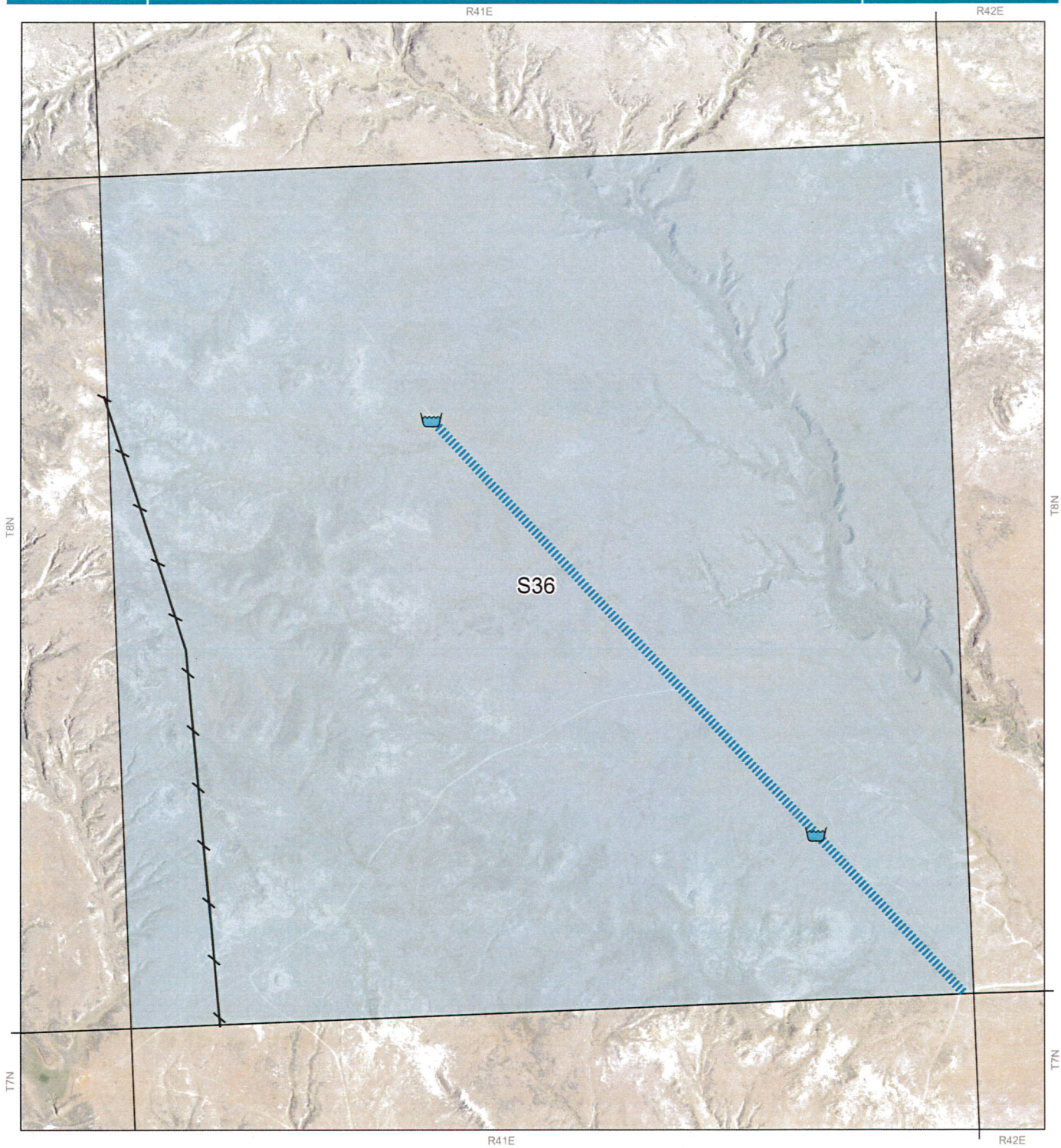
Scale: 1:18,000

Map created 7/29/2024 L. Miller
For Reference only

State Section Map for Proposed Practice Concurrence

USDA is an equal opportunity provider, employer, and lender

THIS MAP IS FOR GRAPHICAL PURPOSES ONLY AND DOES NOT REPRESENT A LEGAL SURVEY. EVERY EFFORT IS MADE TO ENSURE DATA IS ACCURATE AND RELIABLE WITHIN THE LIMITS OF THE CURRENT STATE OF THE ART, BUT NRCS MAKES NO WARRANTY, EXPRESSED OR IMPLIED, NOR DOES DISTRIBUTION OF THIS MAP CONSTITUTE SUCH A WARRANTY.



Client(s): Steve & Patricia Thoeny
Location: T8N R41E SEC36
District: ROSEBUD CONSERVATION DISTRICT
Field Office: FORSYTH
Assisted By: Tessa.Wilson
Created On: 4/18/2024

0 2,000 Feet

N

Planned Practice Name
- Watering Facility
- Barbed Wire Fence
- Livestock Pipeline

Section Grid (PLSS)

Surface Management by Agency
- State Government

This map uses the Montana State Plane (US Feet) projected coordinate system, North American Datum 1983. Additional data courtesy of the Montana State Library, BLM, and ESRI.

STATE OF MONTANA

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

1424 9TH AVENUE P.O. BOX 201601 HELENA, MONTANA 59620-1601

GENERAL ABSTRACT

Water Right Number: 42KJ 30115997 GROUND WATER CERTIFICATE

Version: 1 -- ORIGINAL RIGHT

Version Status: ACTIVE

Owners: PATRICIA R THOENY
827 QUARTER HORSE RD
ROSEBUD, MT 59347-9500

STEVEN S THOENY
827 QUARTER HORSE RD
ROSEBUD, MT 59347-9500

Priority Date: JANUARY 29, 2018 at 01:16 P.M.

Enforceable Priority Date: JANUARY 29, 2018 at 01:16 P.M.

Purpose (Use): STOCK

Maximum Flow Rate: 30.00 GPM

Maximum Volume: 8.50 AC-FT

Source Name: GROUNDWATER

Source Type: GROUNDWATER

Point of Diversion and Means of Diversion:

ID	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1		SWSWSE	31	8N	42E	ROSEBUD

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: WELL

Well Depth: 120.00 FEET

Static Water Level: 45.00 FEET

Casing Diameter: 8.00 INCHES

Purpose (Use): STOCK

Volume: 8.50 AC-FT

Period of Use: JANUARY 1 to DECEMBER 31

Place of Use:

ID	Acres	Govt Lot	Qtr Sec	Sec	Twp	Rge	County
1			SWSWSE	31	8N	42E	ROSEBUD
2			NWSENE	1	7N	41E	ROSEBUD
3		3		1	7N	41E	ROSEBUD

Geocodes/Valid: 29-1634-01-1-01-01-1640 - Y 29-1735-31-3-03-01-0000 - Y

Remarks:

OWNERSHIP UPDATE RECEIVED

OWNERSHIP UPDATE TYPE DOR # 244751 RECEIVED 08/19/2019.

OWNERSHIP UPDATE TYPE 608 # 240623 RECEIVED 09/07/2022.

MONTANA SAGE GROUSE
HABITAT CONSERVATION PROGRAM

GREG GIANFORTE, GOVERNOR
1539 ELEVENTH AVENUE
STATE OF MONTANA
PHONE: (406) 444-0551
FAX: (406) 444-6721
PO BOX 201601
HELENA, MONTANA 59620-1601

Project No. 5589
Governor's Executive Orders 12-2015 and 21-2015
Steve Thoeny Stockwater Development and Grazing

Tessa Wilson
Natural Resources Conservation Service
P.O. Box 1200
Forsyth, MT 59327

May 2, 2024

Dear Ms. Wilson,

The Montana Sage Grouse Habitat Conservation Program received a request for consultation and review of your project or proposed activity on April 23, 2024. Additional information necessary to complete the review was received on April 29, 2024. Based on the information provided, all or a portion of this project is located within a Core Area for sage grouse. The Bureau of Land Management (BLM) classifies this area as a Priority Habitat Management Area (PHMA).

Executive Orders 12-2015 and 21-2015 set forth Montana's Sage Grouse Conservation Strategy. Montana's goal is to maintain viable sage grouse populations and conserve habitat so that Montana maintains flexibility to manage our own lands, our wildlife, and our economy and to ensure that a listing under the federal Endangered Species Act is not warranted in the future.

The Program has completed its review, including:

Project Description:

Project Type: Agriculture – Water
Project Disturbance: 4.05 Miles of Buried Water Pipeline; Seven Stock Tanks Totaling 0.014 Acres
Construction Timeframe: March 1, 2025 to October 31, 2026; Short Term (1-5 Years)
Operations Timeframe: November 1, 2026; Permanent (>25 Years)

Project Location:

Legal: Township 7 North, Range 41 East, Sections 1, 2
Township 8 North, Range 41 East, Sections 35, 36
County: Rosebud
Ownership: State Trust Lands, Private

Project Disturbance and Executive Orders 12-2015 and 21-2015 Consistency:

The Steve Thoeny Stockwater Development and Grazing Project proposes to install a watering system for livestock on private property and State Trust Lands in a designated Core Area for sage grouse.

The landowner, Steve Thoeny, proposes to install approximately 4.05 miles of buried pipeline that will serve seven new stock tanks for an existing livestock watering system located approximately nine miles northeast of Forsyth, Montana in Rosebud County. See Figure 1 (Steve Thoeny Stockwater Development and Grazing Project and Lek Location Map).

Here, the landowner recently acquired land adjacent to his existing property and wishes to develop stock water resources to increase cattle numbers. Currently, an existing pipeline supplies two existing stock tanks but has an unreliable reservoir. A new, 0.92-mile pipeline spur and two new stock tanks will connect to the existing pipeline and will be located on the State Trust Lands parcel. Additionally, five new stock tanks and three pipelines totaling 3.13 miles will be located on private land. All new stock tanks will have wildlife escape ramps installed.

The newly acquired property will be split into four pastures by newly installed electric fence. Three years of prescribed grazing will follow the implementation of the Project.

A trencher or ripper will be used to install the pipeline depending on the method chosen by the contractor.

Based on the information you provided, your project is 3.27 miles from the nearest active Core Area sage grouse lek. See Figure 1 (Steve Thoeny Stockwater Development and Grazing Project and Lek Location Map). The landowner has voluntarily agreed to adhere to the seasonal use timeframe set forth in Executive Order 12-2015. The pipeline and stock tanks will not be installed between March 15 and July 15.

Density Disturbance Calculation Tool (DDCT) Analysis:

The proposed project is to occur in a designated Core Area for sage grouse. The Program has calculated the density and disturbance levels within the project area using a Density Disturbance Calculation Tool. The results were compared to allowable thresholds set forth in the Executive Order 12-2015. Your project results are as follows. See Figure 2 Density Disturbance Calculation Tool Map, and the Explanation Results Summary sheet.

DDCT Analysis Area Acres: 62,550.82
Total Preliminary Disturbance Acres: 4.91
Total Disturbed Acres in Analysis Area: 763
DDCT Result: 1.22%
New Disturbed Acres: 4.91
Affected Leks Within the DDCT Analysis Area: 2

Discussion:

The Steve Thoeny Stockwater Development and Grazing project is located in a designated Core Area for Sage Grouse. Range improvement projects are required to implement appropriate measures to avoid and minimize impacts to sage-grouse and their habitat (e.g. seasonal or time of day stipulations). The project DDCT calculation is within the allowable 5% threshold stipulated in Executive Order 12-2015. The pipeline installation will not occur between March 15 and July 15 to avoid the sage grouse lekking and breeding season.

Livestock grazing is the most widespread type of land use across the sagebrush biome. Although improper livestock management, as determined by local ecological conditions, may have negative impacts on sage grouse seasonal habitats, proper livestock management is a critical tool for providing and maintaining high quality sage grouse habitat.

Water pipelines and stock tanks can distribute livestock across the landscape in ways that avoid surface disturbance and provide conservation gain through improved livestock distribution ad grazing management. Surface disturbance and the disruptive activities associated with installation are temporary, and vegetation should recover in one growing season. To be consistent with Executive Order 12-2015 projects should follow seasonal timing and NSO stipulations. Stock tanks should include wildlife escape ramps. When properly implemented, these projects will have long-term benefits.

Recommendations intended to support grazing management as a tool for providing quality sage grouse habitat are described in Executive Order 12-2015, Attachment G. Distribution of water to livestock can directly facilitate these recommendations by:

- rotating livestock to different pastures, while resting others to establish a diversity of habitat types;
- changing seasons of use within pastures to ensure all plants can reproduce; leaving residual cover (grass from the past season) to increase hiding and nesting cover for sage grouse;
- managing the frequency and intensity of grazing to sustain native grasses, wildflowers, and shrubs; and
- managing livestock access to water to ensure healthy livestock and healthy watersheds.

Recommendations:

The following stipulations are taken from Montana Executive Order 12-2015. These stipulations are designed to maintain existing levels of suitable sage grouse habitat by managing uses and activities in sage grouse habitat to ensure the maintenance of sage grouse abundance and distribution in Montana. Development should be designed and managed to maintain populations and sage grouse habitats.

- Seasonal Use: As authorized by permitting agency or agencies, activities will be prohibited from March 15 through July 15 outside of the perimeter of an active lek in Core Areas where breeding, nesting, and early brood-rearing habitat is present.

- Weed management is required within a Core Area for sage grouse. Reclamation of disturbed areas must include control of noxious weeds and invasive plant species, including cheatgrass (*Bromus tectorum*) and Japanese brome (*Bromus japonicas*).

Your activities are consistent with the Montana Sage Grouse Conservation Strategy. Your proposed project or activity may need to obtain additional permits or authorization from other Montana state agencies or possibly federal agencies. They are very likely to request a copy of this consultation letter, so please retain it for your records.

Please be aware that if the location or boundaries of your proposed project or activity change in the future, or if new activities are proposed within one of the designated sage grouse habitat areas, please visit https://sagegrouse.mt.gov/ and submit the new information.

Thanks for your interest in sage grouse and your commitment to taking the steps necessary to ensure Montana's Sage Grouse Conservation Strategy is successful.

Sincerely,

Therese Hartman
Montana Sage Grouse Habitat Conservation Program

cc: Shawn Thomas
DNRC – Trust Lands and Forestry Administrator
P.O. Box 201601
Helena, MT 59620-1601

DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION
Trust Lands Management Division

GREG GIANFORTE, GOVERNOR
STATE OF MONTANA
DIRECTOR'S OFFICE: (406) 444-2074
FAX: (406) 444-2684

1539 ELEVENTH AVENUE
PO BOX 201601
HELENA, MONTANA 59620-1601

Montana Department of Natural Resources and Conservation
Trust Lands Management Division
Authorization for Temporary Change in Appropriation Right
Consent Form

The lessee proposes to obtain a temporary change in appropriation right to use the lessee's water right(s) on school trust land for the duration of the State Lease AG-2063; lease term beginning March 1, 2017 and ending February 28, 2027, pursuant to §§ 85-2-407 and -441, MCA.

Information about the water right proposed for temporary use on state trust land:

Water Right: 42KJ 30115997
Means of diversion ☒ well ☐ developed spring
Point of diversion: SWSWSE Sec 31 TWP 8N RGE 42E Rosebud County
Place of use: See attached Ground Water Certificate
Purpose of use: Stock

Information regarding proposed purpose of use/place of use:

☐ Irrigation: _____ acres of State Trust Land
_____ acres of Non-Trust Land

☒ Stock/Stock Tanks: 2 tanks on State Trust Land
_____ tanks on Non-Trust Land

☐ Industrial/commercial
☐ Other (describe _____)
☐ Attach map depicting proposed point of diversion, place of use, location of stock tanks, acres irrigated, etc.

TLMD authorizes the lessee to obtain a temporary change in appropriation right to use the lessee's water right described herein on school trust land for the duration of State Lease AG-2063 pursuant to §§ 85-2-407 and -441, MCA. TLMD does not assert an ownership or co-ownership interest in the water right being temporarily changed. Temporary use of the lessee's water right on the state trust land is not an improvement subject to 77-6-301, MCA, and ARM 36.25.125. Authorization is only for the term of the lease and must be re-applied for at the time of lease renewal.

This approval is made upon the express condition that the lessee shall assume all liability for any injury, property damage or loss by any persons, including such loss to any employee or property of lessee, its agents, or third persons, or to the lessee, from any cause or causes arising from placing the above-described water right on state land. Lessee shall indemnify lessor and save, protect, defend, and hold lessor harmless from any and all liability, loss, damage, expense (including legal expenses and reasonable attorney fees), causes of action, suits, claims or judgments arising from injury to person or property or resulting from or based upon lessor's ownership of the property, which is the subject of this lease, from any cause or causes arising from using the above-described water right on state land, and shall, at lessee's own cost and expense, defend any and all suits which may be brought against lessor, either alone or in conjunction with others, upon any such liability or claim(s). Lessee shall satisfy, pay and discharge any and all judgments and fines that may be recovered against lessor in any such action(s).

Lessee Signature	7-22-24 Dated
Lessee Signature	Dated
DNRC Area/Unit Office Approval	10/17/24 Dated
DNRC AG & Grazing Bureau Approval	07/29/2024 Dated