

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

ENVIRONMENTAL ASSESSMENT
For Routine Actions with Limited Environmental Impact

Part I. Proposed Action Description

1. Applicant/Contact name and address:

State of Montana, Department of Fish, Wildlife & Parks
PO Box 200701
Helena, MT 59620-0701

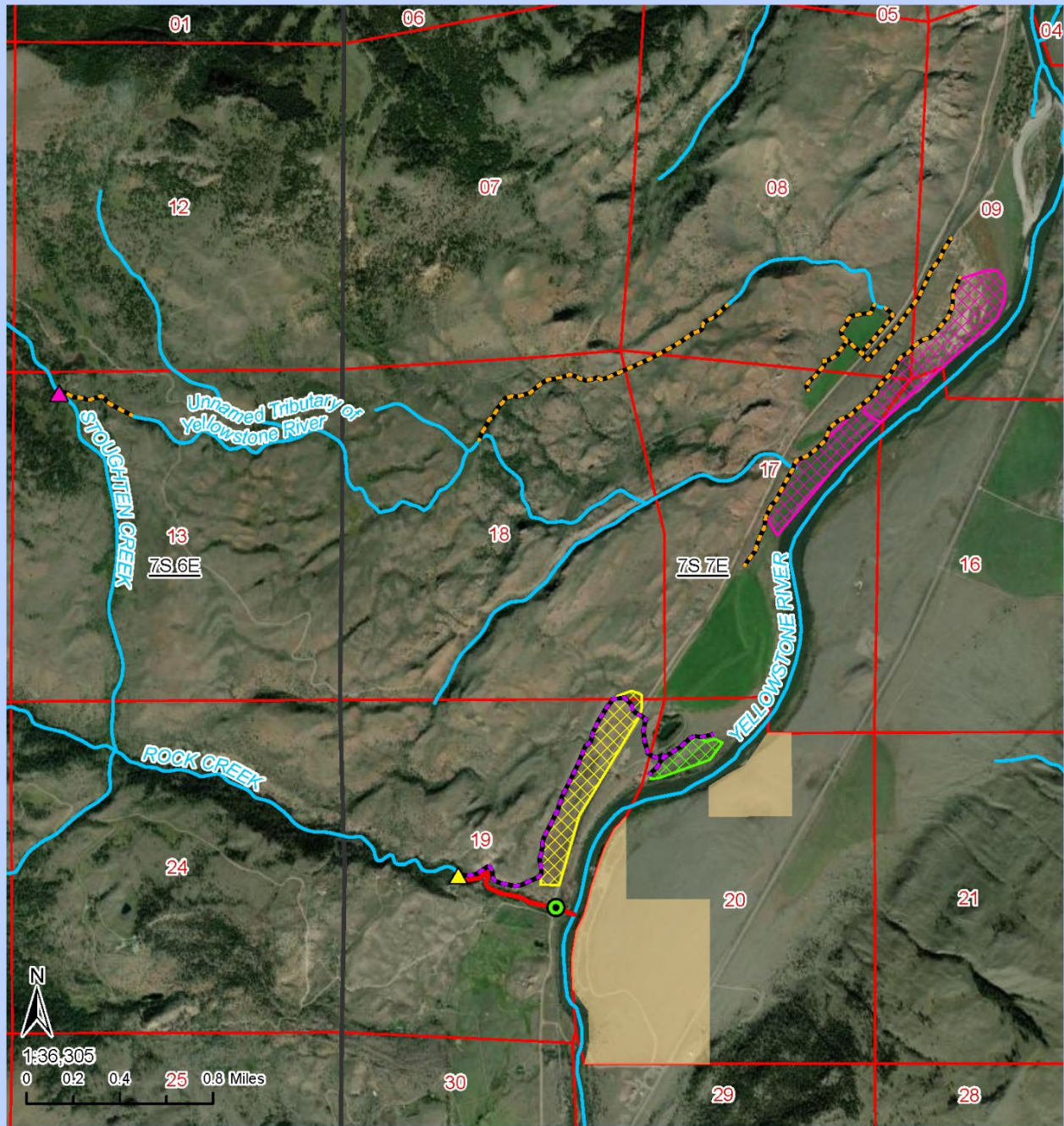
2. Type of action: Application to Change Existing Irrigation Water Right No. 43B 30159989 by State of Montana, Department of Fish, Wildlife & Parks

3. Water source name: Stoughten Creek and Rock Creek

4. Location affected by project: 0.44-mile reach of Rock Creek beginning at the Stewart Ditch headgate in the NENESW Section 19, T7S, R7E, and ends at the confluence of Rock Creek and the Yellowstone River in the NENESE Section 19, T7S, R7E, all within Park County. Seen on the map provided as Figure 1.

5. Narrative summary of the proposed project, purpose, action to be taken, and benefits: The Applicant proposes to change the point of diversion (POD), place of use (POU), and purpose of irrigation Statements of Claim Nos. 43B 194222-00, 43B 194343-00, 43B 194822-00, 43B 194823-00, 43B 194824-00, 43B 194344-00, and 43B 194825-00 to instream fisheries use in Rock Creek. During the irrigation season (May 1 to October 10) 10.59 CFS and 856.38 AF will be protected at the historical POD and 2.54 CFS and 816.80 AF will be protected below the historical POD within the protected reach. The DNRC shall issue a Change Authorization if an Applicant proves the criteria in 85-2-402 MCA are met.

Montana State Department of Fish, Wildlife & Parks



Change Application 43B 30159989 - Historical & Proposed Use

- US Bureau of Land Management
- Historical Use**
- 43B 19344-00, 43B 194825-00 - POD
- Stewart Ditch
- Pfohl Ditch
- POUs**
- 43B 194344-00, 43B 194825-00
- 43B 194822-00, 43B 194823-00, 43B 194824-00, 43B 194343-00
- Proposed Use**
- 43B 194822-00, 43B 194823-00, 43B 194824-00, 43B 194343-00, 43B 194222-00
- Proposed POD (43B 194822-00, 43B 194823-00, 43B 194824-00, 43B 194343-00, 43B 194222-00 Historical POD)
- Measurement Gage
- Protected Reach



Aerial Imagery: World Imagery.
Maxar
Map Created: 5/16/2024



Figure 1. Change Application 43B 30159989 Historical and Proposed Use Map

6. Agencies consulted during preparation of the Environmental Assessment: (include agencies with overlapping jurisdiction)
- Montana Department of Fish, Wildlife & Parks (FWP) – Dewatered Streams Page 3 of 4 https://gis-mtfwp.opendata.arcgis.com/datasets/e0849312c41b415992a075f8696164c8_0/explore?location=46.751212%2C-110.425168%2C7.85
 - Montana Department of Environmental Quality (DEQ) – Clean Water Act Information Center (CWAIC) <https://clean-water-act-information-center-mtdeq.hub.arcgis.com/>
 - Montana National Heritage Program (MTNHP) – Natural Heritage Map Viewer <https://mtnhp.org/mapviewer/?t=7>
 - U.S. Fish & Wildlife Service (USFWS) – National Wetlands Inventory Wetlands Mapper <https://www.fws.gov/program/national-wetlands-inventory/wetlands-mapper>
 - Natural Resource Conservation Service (NRCS) – Web Soil Survey (WSS) <https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx>

1. **Environmental Impact Checklist:**

PHYSICAL ENVIRONMENT

WATER QUANTITY, QUALITY AND DISTRIBUTION

Water quantity - Assess whether the source of supply is identified as a chronically or periodically dewatered stream by DFWP. Assess whether the proposed use will worsen the already dewatered condition.

Determination: No significant impact identified.

A June 12, 2024, search of FWP Dewatered Streams data shows Rock Creek and Stoughten Creek appurtenant to the project are not listed as a dewatered streams. The water historically diverted for irrigation use from Stoughten Creek and Rock Creek will remain in the creeks for instream fisheries use, so the quantity in the source will increase and dewatering will not be exacerbated.

Water quality - Assess whether the stream is listed as water quality impaired or threatened by DEQ, and whether the proposed project will affect water quality.

Determination: No significant impact identified.

A June 13, 2024, search of the DEQ impaired water 2020 data on the CWAIC identified Stoughten Creek and Rock Creek as not assessed for impairments. The proposed project involves changing the purpose from irrigation use to instream fisheries use. The proposed change is likely to increase the water quality of Stoughten Creek and Rock Creek.

Groundwater - Assess if the proposed project impacts ground water quality or supply. If this is a groundwater appropriation, assess if it could impact adjacent surface water flows.

Determination: No significant impact identified.

The proposed use does not involve a groundwater component.

DIVERSION WORKS - *Assess whether the means of diversion, construction and operation of the appropriation works of the proposed project will impact any of the following: channel impacts, flow modifications, barriers, riparian areas, dams, well construction.*

Determination: No significant impact identified.

The proposed project will no longer divert Stoughten Creek water into the Pfohl Ditch or Rock Creek into the Stewart Ditch. Water historically diverted from Stoughten Creek and Rock Creek will continue in the streams until the confluence of Rock Creek and the Yellowstone River. The project's proposed POD will not involve any disturbances to the riparian area and is expected to positively impact the flow barrier and regimes of Stoughten Creek and Rock Creek.

UNIQUE, ENDANGERED, FRAGILE OR LIMITED ENVIRONMENTAL RESOURCES

Endangered and threatened species - *Assess whether the proposed project will impact any threatened or endangered fish, wildlife, plants or aquatic species or any "species of special concern," or create a barrier to the migration or movement of fish or wildlife. For groundwater, assess whether the proposed project, including impacts on adjacent surface flows, would impact any threatened or endangered species or "species of special concern."*

Determination: No significant impact identified.

A June 17, 2024, search of the Montana Heritage Program's website for sections 8, 9, 16, 17, 18, 19, and 20, T7S, R7E, Park County, returned the following results:

- 19 Animal Species of Concern: Grizzly Bear, American Bittern, American White Pelican, Brewer's Sparrow, Caspian Tern, Cassin's Finch, Clark's Nutcracker, Ferruginous Hawk, Forster's Tern, Golden Eagle, Great Blue Heron, Green-tailed Towhee, Horned Grebe, Loggerhead Shrike, Sage Thrasher, Trumpeter Swan, Veery, White-faced Ibis, Yellowstone Cutthroat Trout
- 2 Animal Potential Species of Concern: Barrow's Goldeneye and Black-and-white Warbler
- 1 Animal Special Status Species: Bald Eagle
- 0 Plant Species of Concern
- 1 Plant Potential Species of Concern: Spiny Skeletonweed
- 0 Plant Special Status Species

The proposed project will not negatively impact any threatened or endangered fish, wildlife, plants, or aquatic species. The proposed project will not create a barrier to the migration or movement of fish or wildlife, since water will be left instream in Stoughten and Rock Creeks. The proposed project is expected to enhance fisheries in Rock Creek.

Wetlands - *Consult and assess whether the apparent wetland is a functional wetland (according to COE definitions), and whether the wetland resource would be impacted.*

Determination: No Significant impact detected.

A June 17, 2024, search on the National Wetland Inventory Mapper shows forested/shrub and freshwater emergent wetlands. These wetlands have surface water present for brief periods of the growing season and the water table usually lies well below the ground surface. It appears that the wetlands, seen in Figure 2, correlate with Stoughten Creek, Unnamed Tributaries of the Yellowstone River, Rock Creek, and ditch laterals of Pfohl Ditch and the Stewart Ditch. The DNRC identified the Unnamed Tributaries of the Yellowstone River as intermittent natural carrier features. The natural carrier features and ditches were historically used for irrigation purposes and are freshwater emergent wetlands that have seasonally flooded water regimes. Although water will no longer be diverted into the ditches and natural carrier features in the proposed project, surface water will be present during early growing season when runoff and snowmelt occurs. After flooding or runoff ceases, the natural carrier features and ditches water table will vary based on the water table. The proposed project will allow Stoughten Creek and Rock Creek water continue downstream to the confluence of Rock Creek and the Yellowstone River. The proposed change is not expected to have no significant impacts on the wetlands in the proposed project.

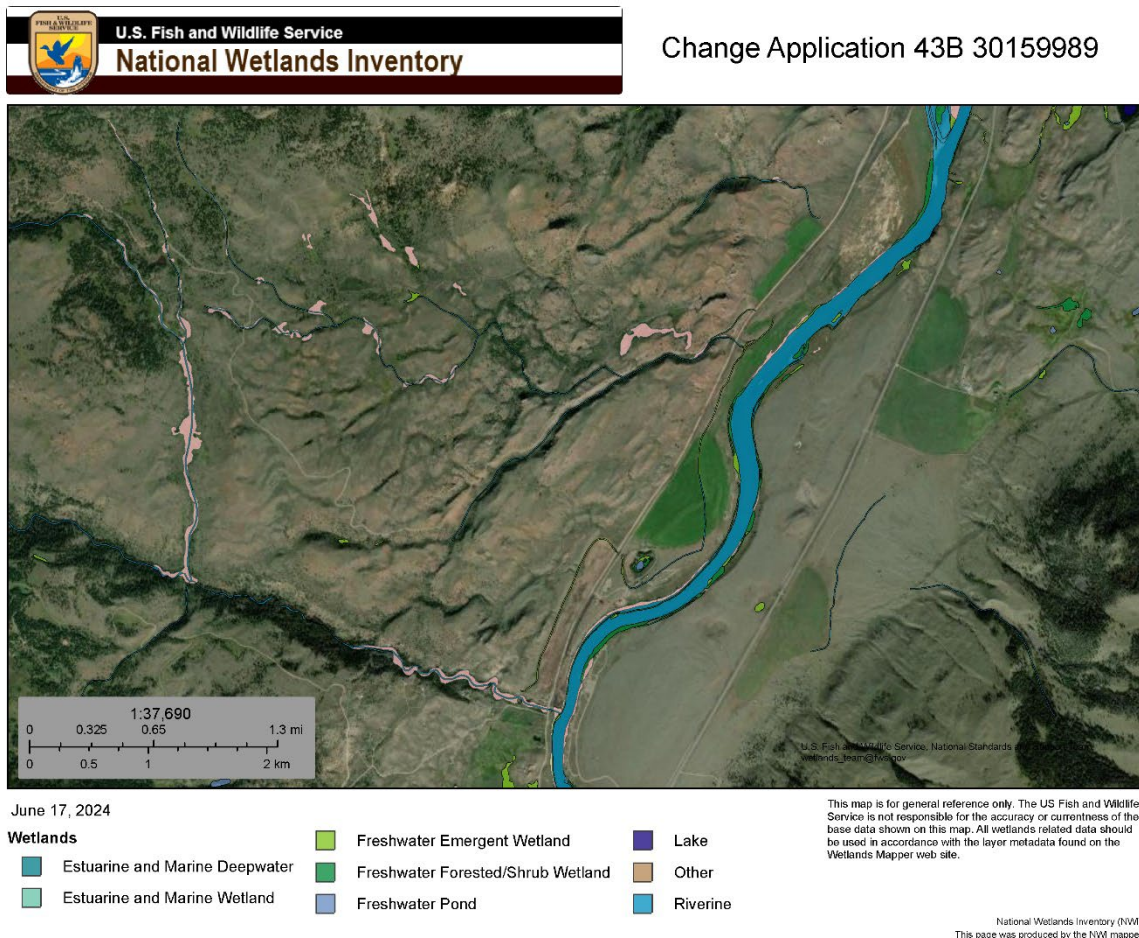


Figure 2. National Wetland Inventory Mapper of Proposed Project Area

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

Determination: No significant impact identified.

There are no ponds involved in this Change Application.

GEOLOGY/SOIL QUALITY, STABILITY AND MOISTURE - *Assess whether there will be degradation of soil quality, alteration of soil stability, or moisture content. Assess whether the soils are heavy in salts that could cause saline seep.*

Determination: No significant impact.

A June 17, 2024, search of the USDA Web Soil Survey identified low surface salinization risk in the project area. The proposed project is not predicted to increase soil salinization risk. The historical place of use will no longer be irrigated by Stoughten Creek or Rock Creek water. Water from Stoughten Creek and Rock Creek that was historically used for irrigation will remain in the creeks. The proposed project does not anticipate having any significant impact on soil quality, stability, or salinity.

VEGETATION COVER, QUANTITY AND QUALITY/NOXIOUS WEEDS - *Assess impacts to existing vegetative cover. Assess whether the proposed project would result in the establishment or spread of noxious weeds.*

Determination: No significant impact identified.

The proposed project does not anticipate having any significant impact on vegetation cover, quantity, or quality. Under Montana law, private landowners are responsible for noxious weed control on their property.

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

Determination: No significant impact identified.

The proposed project will not impact air quality.

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

Determination: No significant impact.

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

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

Determination: No significant impact identified.

No impacts on environmental resources of land, water, or energy not already addressed.

HUMAN ENVIRONMENT

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

Determination: No significant impact identified.

This project is a Change Application proposing to change the POD, POU, and purpose of multiple Statements of Claim to instream fisheries use, which is a recognized beneficial use of water within the State of Montana (§85-2-102(5), MCA). The Applicant submitted support for instream fishery use in Rock Creek.

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

Determination: No significant impact identified.

The proposed change is located within Rock Creek which is important for fish rearing for the Yellowstone River Fishery. The proposed project results in water being left instream, which benefits fish populations and recreational fishing activities that occur within Rock Creek and the Yellowstone River. The proposed project will not impact access to recreational and wilderness activities and will improve the quality of these activities.

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

Determination: No significant impact identified.

The proposed project will not impact human health.

PRIVATE PROPERTY - *Assess whether there are any government regulatory impacts on private property rights.*

Yes ___ No X *If yes, analyze any alternatives considered that could reduce, minimize, or eliminate the regulation of private property rights.*

Determination: No significant impact identified.

The proposed project does not impact government regulations on private property rights.

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

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

Secondary Impacts: No significant secondary impacts identified.

Cumulative Impacts: No significant cumulative impacts identified.

3. *Describe any mitigation/stipulation measures:* The Applicant proposes to monitor stream flow at a State of Montana, Department of Fish, Wildlife & Parks staff gage (43B 91750) on Rock Creek just upstream of the Rock Creek and Yellowstone River Confluence.

4. *Description and analysis of reasonable alternatives to the proposed action, including the no action alternative, if an alternative is reasonably available and prudent to consider:* If the Change Application is not authorized, Stoughten Creek and Rock Creek will continue to provide the same habitat and fishing opportunities that it currently does. The no action alternative is for the water right owners to continue to divert water for irrigation use, as done historically.

PART III. Conclusion

1. **Preferred Alternative:** The preferred alternative is to grant the Change Application if the Applicant has proven the criteria of §85-2-402, MCA.

2 **Comments and Responses**

3. **Finding:**

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

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

The EA is the appropriate level of analysis because the proposed project is to change POD, POU, and purpose of Statement of Claim Nos 43B 194822-00, 43B 194823-00, 43B 194824-00, 43B 194343-00, 43B 194222-00, 43B 194344-00, and 43B 194825-00 to instream fisheries use in Rock Creek. Instream fisheries use is considered a beneficial use of water and is supported by wildlife regulatory agencies. No significant impacts were identified as defined in ARM 36.2.524.

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

Name: Savannah Telander

Title: Water Resources Specialist

Date: 7/16/2024