

# PUBLIC NOTICE

Notice to Water Users  
(Pursuant to Section 85-2-307, MCA)

The following application has been submitted to appropriate water in the State of Montana.

THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION PROPOSES TO GRANT AN APPLICATION FOR BENEFICIAL WATER USE PERMIT. DESCRIBED BELOW ARE THE PERTINENT FACTS WHICH SUMMARIZE THE APPLICATION. THE PRELIMINARY DETERMINATION (PD) DOCUMENTING THE FINDINGS OF FACT AND CONCLUSIONS OF LAW AND ANY CONDITIONS ATTACHED TO THE WATER RIGHT ARE AVAILABLE ON THE INTERNET AT <http://www.dnrc.mt.gov/wrd/>.

**OBJECTION DEADLINE: JUNE 15, 2020.** THE DEPARTMENT CAN ONLY ACCEPT OBJECTIONS FILED ON AN OBJECTION TO APPLICATION, FORM 611. MAIL THE COMPLETED FORM AND THE \$25.00 FILING FEE TO THE DNRC, PO BOX 201601, HELENA, MT 59620-1601 BY THE DEADLINE SPECIFIED. THE FORM IS AVAILABLE ON THE DEPARTMENT'S WEBSITE.

DIRECT ANY QUESTIONS PERTAINING TO THE APPLICATION, TO OBTAIN THE PD OR OBJECTION FORM TO THE WATER RESOURCES OFFICE AT 613 NE MAIN, SUITE E, LEWISTOWN, MT 59457-2020, PHONE: 406-538-7459, FAX: 406-538-7089.

IF ISSUED, THE RIGHT WILL BE SUBJECT TO PRIOR EXISTING WATER RIGHTS.

**Application Number:** 41J 30116563  
**Owners:** TINTINA MONTANA INC  
17 E MAIN ST  
WHITE SULPHUR SPRINGS, MT 59645  
**Priority Date:** SEPTEMBER 7, 2018 at 02:21 P.M.  
**Purpose (use):** WETLAND  
MITIGATION WATER  
**Maximum Flow Rate:** 7.50 CFS  
**Maximum Volume:** 291.90 AC-FT  
**Maximum Acres:** 96.00  
**Source Name:** SHEEP CREEK  
**Source Type:** SURFACE WATER

**Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SWNENW	30	12N	7E	MEAGHER

**Period of Diversion:** MAY 1 TO JULY 31 **Flow Rate:** 7.50 CFS  
**Diversion Means:** PIPELINE  
**Casing Diameter:** 22.00 INCHES  
**Pump Size:** 425.00 HP

**Reservoir:** OFF STREAM **Reservoir Name:** NON CONTACT WATER RESERVOIR

	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
		N2	31	12N	7E	MEAGHER

**Dam Height:** 47.60 FEET  
**Depth:** 35.00 FEET  
**Surface Area:** 15.70 ACRES  
**Current Capacity:** 291.90 ACRE-FEET

**Purpose (Use):** WETLAND **Purpose Clarification:** WETLAND MAINTENANCE  
**Volume:** 57.70 AC-FT  
**Period of Use:** MAY 11 to JUNE 11

**Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	18.00		S2	24	12N	6E	MEAGHER
2	24.00			25	12N	6E	MEAGHER
3	1.00		NENE	36	12N	6E	MEAGHER
4	19.00		W2SW	19	12N	7E	MEAGHER
5	29.00		W2	30	12N	7E	MEAGHER
6	5.00		NWNW	31	12N	7E	MEAGHER
<b>Total:</b>	<b>96.00</b>						

**Purpose (Use):** MITIGATION WATER      **Purpose Clarification:** STREAMFLOW MITIGATION  
**Volume:** 291.90 AC-FT  
**Period of Use:** JANUARY 1 to DECEMBER 31  
**Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1				1	12N	5E	MEAGHER
2				2	12N	5E	MEAGHER
3				11	12N	5E	MEAGHER
4				12	12N	5E	MEAGHER
5				13	12N	5E	MEAGHER
6				3	12N	6E	MEAGHER
7				4	12N	6E	MEAGHER
8				5	12N	6E	MEAGHER
9				6	12N	6E	MEAGHER
10				10	12N	6E	MEAGHER
11				11	12N	6E	MEAGHER
12				12	12N	6E	MEAGHER
13				13	12N	6E	MEAGHER
14				18	12N	6E	MEAGHER
15				19	12N	6E	MEAGHER
16				20	12N	6E	MEAGHER
17				21	12N	6E	MEAGHER
18				22	12N	6E	MEAGHER
19				24	12N	6E	MEAGHER
20				25	12N	6E	MEAGHER
21				26	12N	6E	MEAGHER
22				27	12N	6E	MEAGHER
23				35	12N	6E	MEAGHER
25				18	12N	7E	MEAGHER
26				19	12N	7E	MEAGHER
27				30	12N	7E	MEAGHER

**Remarks:**

**IMPORTANT INFORMATION**

1. WATER MONITORING AND MINIMUM FLOW REQUIRED:

THE APPROPRIATOR MUST ADHERE TO MINIMUM STREAM FLOW CONDITIONS ON SHEEP CREEK AND THE SMITH RIVER PRIOR TO APPROPRIATING WATER. ALTHOUGH THE FOLLOWING CONDITIONS SPECIFY MINIMUM FLOW LEVELS ON BOTH SOURCES, IT IS THE APPROPRIATOR'S RESPONSIBILITY TO CEASE DIVERSIONS WHEN A VALID CALL IS MADE BY SENIOR WATER USERS ON EITHER SOURCE.

A. THE APPROPRIATOR SHALL NOT DIVERT WATER UNLESS THE CUMULATIVE FLOW AT ITS STREAM GAGES IN SHEEP CREEK AND MOOSE CREEK ARE 84.9 CFS OR GREATER. THE STREAM GAGE IN SHEEP CREEK SHALL BE LOCATED IN THE NWSWSW SECTION 18, T12N, R7E; AND THE STREAM GAGE IN MOOSE CREEK SHALL BE LOCATED IN THE S2SWNE SECTION 13, T12N, R6E. STREAM FLOWS AT THE REFERENCED GAGES MUST BE CHECKED DAILY TO ENSURE CONDITIONS ARE APPROPRIATE FOR DIVERSIONS.

B. THE APPROPRIATOR SHALL NOT DIVERT WATER UNLESS FLOW IN THE SMITH RIVER AT U.S. GEOLOGICAL SURVEY GAGE NO. 06077200 (SMITH RIVER BELOW EAGLE CREEK NEAR FORT LOGAN, MT) IS AT LEAST 207.3 CFS IN MAY, 207.8 CFS IN JUNE, AND 197.8 CFS IN JULY.

**IMPORTANT INFORMATION**

2. WATER MEASUREMENT REQUIRED

A. THE APPROPRIATOR SHALL INSTALL A DEPARTMENT-APPROVED WATER USE MEASURING DEVICE IN THE CONVEYANCE LINE BETWEEN THE POINT OF DIVERSION AND STORAGE RESERVOIR. WATER MUST NOT BE DIVERTED UNTIL THE REQUIRED MEASURING DEVICE IS IN PLACE AND OPERATING. THE APPROPRIATOR SHALL KEEP A WRITTEN MONTHLY RECORD OF THE FLOW RATE AND VOLUME OF ALL WATER DIVERTED, INCLUDING THE PERIOD OF TIME.

B. THE APPROPRIATOR SHALL INSTALL DEPARTMENT-APPROVED WATER USE MEASURING DEVICES IN ALL DISCHARGE LINES BETWEEN THE STORAGE RESERVOIR AND THE POINTS OF MITIGATION IN SHEEP CREEK, BLACK BUTTE CREEK, AND COON CREEK. WATER MUST NOT BE DIVERTED UNTIL THE REQUIRED MEASURING DEVICES ARE IN PLACE AND OPERATING. THE APPROPRIATOR SHALL KEEP A

WRITTEN MONTHLY RECORD OF THE FLOW RATE AND VOLUME OF ALL WATER DISCHARGED FROM THE RESERVOIR FOR MITIGATION PURPOSES, INCLUDING THE PERIOD OF TIME.

**IMPORTANT INFORMATION**

**3. MITIGATION PLAN - SHEEP CREEK DRAINAGE**

THIS PERMIT AND GROUNDWATER PERMIT NO. 41J 30116562 ARE ASSOCIATED. GROUNDWATER PERMIT NO. 41J 30116562 INCLUDES AN APPROPRIATION OF WATER FROM THE MINE WORKINGS FOR PURPOSES OF INDUSTRIAL USE. THE GROUNDWATER APPROPRIATION WILL DEplete SURFACE WATER IN SHEEP CREEK, BLACK BUTTE CREEK, AND COON CREEK, AND THIS PERMIT WILL PARTIALLY MITIGATE THOSE DEPLETIONS. THE ADMINISTRATION OF WATER UNDER THE TWO PERMITS, AND OTHER WATER RIGHTS MARKETED TO THE APPROPRIATOR, MUST BE COORDINATED TO PROPERLY EXECUTE THE MITIGATION PLAN. MITIGATION WATER MUST BE RELEASED INTO COON CREEK AND BLACK BUTTE CREEK AT A POINT UPSTREAM OF ALL EXISTING WATER RIGHTS IN THE DEPLETED REACHES, AND IN THE FOLLOWING DISCHARGE LOCATION IN SHEEP CREEK: SWNENW SECTION 30, T12N, 7E.

ACCOUNTING OF THE VOLUME OF ALL WATER DISCHARGED FROM THE NON-CONTACT RESERVOIR SHALL BE RECORDED, INCLUDING THE PERIOD OF TIME. FAILURE TO EXECUTE THE MITIGATION PLAN AS OUTLINED IN THIS PRELIMINARY DETERMINATION, OR FAILURE TO SUBMIT RECORDS, SHALL BE CAUSE FOR REVOCATION OF THE PERMIT.

RECORDS SHALL BE SUBMITTED BY DECEMBER 31 OF EACH YEAR AND UPON REQUEST AT OTHER TIMES DURING THE YEAR. FAILURE TO SUBMIT RECORDS MAY BE CAUSE FOR REVOCATION OF THE PERMIT. THE RECORDS MUST BE SENT TO THE WATER RESOURCES REGIONAL OFFICE LISTED BELOW. THE APPROPRIATOR SHALL MAINTAIN THE MEASURING DEVICE SO IT ALWAYS OPERATES PROPERLY AND MEASURES FLOW RATE ACCURATELY. SUBMIT RECORDS TO:

LEWISTOWN WATER RESOURCES OFFICE  
613 NE MAIN ST, SUITE E  
LEWISTOWN, MT  
PHONE: 406-538-7459

**IMPORTANT INFORMATION**

**4. MITIGATION PLAN - MISSOURI RIVER**

PRIOR TO COMMENCING DIVERSIONS UNDER THIS PERMIT, THE APPROPRIATOR SHALL MAKE PROVISION TO MITIGATE ADVERSE EFFECTS AND PROVIDE FOR LEGAL WATER AVAILABILITY ON THE MISSOURI RIVER BY REPLACING THE FULL DIVERTED VOLUME THROUGH THE PURCHASE OF A U.S. BUREAU OF RECLAMATION (BOR) WATER SERVICE CONTRACT FROM CANYON FERRY RESERVOIR. THE VOLUME OF WATER STATED ON THE CONTRACT MUST BE 291.9 ACRE-FEET PER YEAR. ACTUAL DELIVERIES OF WATER UNDER SUCH CONTRACT MUST OCCUR EVERY YEAR THAT THE APPROPRIATOR DIVERTS WATER UNDER THIS PERMIT. APPROPRIATOR SHALL SUBMIT TO THE LEWISTOWN REGIONAL OFFICE PROOF OF THE WATER SERVICE CONTRACT WITH BOR. DIVERSION UNDER THIS PERMIT MUST CEASE IF ANY PART OF THE REQUIRED MITIGATION CEASES.

**PUBLISHED IN:** GREAT FALLS TRIBUNE and MEAGHER COUNTY NEWS ON APRIL 16, 2020.