



Montana Department of
ENVIRONMENTAL QUALITY

Mayor
Supt

Steve Bullock, Governor
Tracy Stone-Manning, Director

P. O. Box 200901 • Helena, MT 59620-0901 • (406) 444-2544 • Website: www.deq.mt.gov

March 21, 2014

Larry Bonderud
Mayor
City of Shelby
112 First Street South
Shelby, MT 59474

Sewer

RECEIVED
MAR 27 2014
CITY OF SHELBY

RE: Notice of Final Decision, Montana Pollutant Discharge Elimination System (MPDES)
Permit No.: MT0031488

Dear Mr. Bonderud:

In accordance with the Administrative Rules of Montana (ARM) 17.30.1378, please find the proposed wastewater discharge permit for the Shelby Wastewater Treatment Plant issued to the City of Shelby. The permit is issued by the Department under the authority of 75-5-402, Montana Code Annotated (MCA) and Sections 402 and 303 of the federal Clean Water Act. No comments were received during the public comment period.

In accordance with ARM 17.30.1378, the Department's final decision to issue the permit is effective 30 days after service of this notice. Under ARM 17.30.1370, the applicant may appeal this decision within the 30-day period in accordance with 75-5-403 and 75-5-611, MCA. Pursuant to 40 CFR 122.44, the Regional Administrator may object to or make recommendations to the proposed permit.

A copy of the permit should be made available to the person in charge of the operation of the wastewater treatment facilities so that person is aware of the requirements in the permit. Please take note of any revised monitoring requirements specified in Part I of the permit. The preprinted Discharge Monitoring Report (DMR) forms will be sent soon.

C. Monitoring Requirements – Outfall 001

As a minimum, upon the effective date of this permit, the following constituents shall be monitored at the frequency and with the type of measurement indicated; samples or measurements shall be representative of the volume and nature of the monitored discharge. If no discharge occurs during the entire monitoring period, it shall be stated on the Discharge Monitoring Report Form (EPA No. 3320-1) that no discharge or overflow occurred.

Effluent samples are to be collected immediately prior to the V-notch weir downgradient of the effluent control structure. Effluent flow is to be measured at the weir where it discharges to Medicine Rock Coulee at Outfall 001. Influent samples are to be collected from the open channel in the manhole at the influent control structure located on the road along the dike on the northwest side of Cell 1.

All analytical procedures must comply with the specifications of 40 CFR Part 136. The analysis must meet the most current required reporting values (RRVs) as listed in Circular DEQ-7 unless otherwise specified. Samples shall be collected, preserved and analyzed in accordance with approved procedures listed in 40 CFR 136.

Reporting Requirements

Load Calculations

Effluent limitations or monitoring requirements that are expressed in terms of load (lb/day), must be based on total mass of the discharge in accordance with the definition of daily discharge in Part V of this permit. If the permit specifies that the effluent flow rate be monitored on a continuous basis, the total mass shall be calculated using the following equations:

$$\text{Load (lb/day)} = \text{Daily Discharge (mg/L)} \times \text{Daily Flow (MGD)} \times 8.34$$

If the permit specifies that the effluent flow rate be measured on an instantaneous basis, the total mass shall be estimated using the following equation:

$$\text{Load (lb/day)} = \text{Daily Discharge (mg/L)} \times \text{Daily Flow (GPM)} \times 0.012$$

The daily flow used to calculate the load must be measured in the same calendar day or 24-hour period in which the effluent sample is collected for either method.

Percent (%) Removal

The percent removal shall be calculated using the following formula:

$$\% \text{ Removal} = \frac{[\text{Influent Concentration}] - [\text{Effluent Concentration}]}{[\text{Influent Concentration}]} \times 100\%$$

Where:

Influent Concentration = Corresponding 30-Day average influent concentration based on the analytical results of the reporting period.

Effluent Concentration = Corresponding 30-Day average effluent concentration based on the analytical results of the reporting period.

Average Monthly Limit (AML)

The AML or 30-day average is the Arithmetic Average or mean (except fecal Coliform) of all of the Daily Discharge samples collected during a calendar month, as defined in Part V of the permit. If only one sample is collected then it is considered the 30-day average and reported on the Discharge Monitoring Report.

- a. Pollutants which create a fire or explosion hazard in the POTW, including waste streams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Celsius using the test methods specified in 40 CFR 261.21;
 - b. Pollutants which will cause corrosive structural damage to the POTW, but in no case discharges with pH lower than 5.0, unless the works is specifically designed to accommodate such discharges;
 - c. Solid or viscous pollutants in amounts which will cause obstruction to the flow in the POTW resulting in interference;
 - d. Any pollutant, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which will cause interference with the POTW;
 - e. Heat in amounts which will inhibit biological activity in the POTW resulting in interference, but in no case heat in such quantities that the temperature at the POTW treatment plant exceeds 40 degrees Celsius (104 degrees Fahrenheit) unless the department, upon request of the POTW, approves alternative temperature limits;
 - f. Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause Interference or Pass Through;
 - g. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems; and
 - h. Any trucked or hauled pollutants, except at discharge points designated by the POTW.
3. Publicly Owned Treatment Works. All POTWs must provide adequate notice to the Department of the following:
- a. Any new introduction of pollutants into the POTW from an indirect discharger which would be subject to federal effluent guidelines and standards [40CFR Subchapter N] if it were directly discharging those pollutants; and
 - b. Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.
 - c. For the purposes of this paragraph, adequate notice shall include information on:

II. MONITORING, RECORDING AND REPORTING REQUIREMENTS

A. Representative Sampling

Samples taken in compliance with the monitoring requirements established under Part I of the permit shall be collected from the effluent stream prior to discharge into the receiving waters. Samples and measurements shall be representative of the volume and nature of the monitored discharge. Sludge samples shall be collected at a location representative of the quality of sludge immediately prior to use-disposal practice.

B. Monitoring Procedures

Monitoring must be conducted according to test procedures approved under Part 136, Title 40 of the Code of Federal Regulations, unless other test procedures have been specified in this permit. See Part I.C of this permit for any applicable sludge monitoring procedures. All flow-measuring and flow-recording devices used in obtaining data submitted in self-monitoring reports must indicate values within 10 percent of the actual flow being measured.

C. Penalties for Tampering

The Montana Water Quality Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate, any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$25,000, or by imprisonment for not more than six months, or by both.

D. Reporting of Monitoring Results

Monitoring results must be reported on a Discharge Monitoring Report (DMR) EPA form 3320-1. Monitoring results must be submitted in either electronic or paper format and be postmarked no later than the 28th day of the month following the end of the monitoring period. Whole effluent toxicity (biomonitoring) results must be reported with copies of the laboratory analysis report on forms from the most recent version of EPA Region VIII's "Guidance for Whole Effluent Reporting". If no discharge occurs during the reporting period, "no discharge" must be reported on the report form. Legible copies of these, and all other reports required herein, must be signed and certified in accordance with Part IV.G 'Signatory Requirements' of this permit and submitted to DEQ at the following address:

Montana Department of Environmental Quality
Water Protection Bureau
PO Box 200901
Helena, Montana 59620-0901
Phone: (406) 444-3080

E. Compliance Schedules

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of the permit must be submitted to DEQ in either electronic or paper format and be postmarked no

Disaster and Emergency Services at (406) 324-4777. The following examples are considered serious incidents:

- a. Any noncompliance which may seriously endanger health or the environment;
 - b. Any unanticipated bypass which exceeds any effluent limitation in the permit (See Part III.G of this permit, "Bypass of Treatment Facilities");
 - c. Any upset which exceeds any effluent limitation in the permit (See Part III.H of this permit, "Upset Conditions").
2. A written submission shall also be provided within five days of the time that the permittee becomes aware of the circumstances. The written submission shall contain:
 - a. A description of the noncompliance and its cause;
 - b. The period of noncompliance, including exact dates and times;
 - c. The estimated time noncompliance is expected to continue if it has not been corrected; and
 - d. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.
 3. The Department may waive the written report on a case-by-case basis if the oral report has been received within 24 hours by the Water Protection Bureau, by phone, at (406) 444-3080.
 4. Reports shall be submitted to the addresses in Part II.D of this permit, "Reporting of Monitoring Results".

J. Other Noncompliance Reporting

Instances of noncompliance not required to be reported within 24 hours shall be reported at the time that monitoring reports for Part II.D of this permit are submitted. The reports shall contain the information listed in Part II.I.2 of this permit.

K. Inspection and Entry

The permittee shall allow the head of the Department or the Director, or an authorized representative thereof, upon the presentation of credentials and other documents as may be required by law, to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

III. COMPLIANCE RESPONSIBILITIES

A. Duty to Comply

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. The permittee shall give the Department advance notice of any planned changes at the permitted facility or of an activity which may result in permit noncompliance.

B. Penalties for Violations of Permit Conditions

The Montana Water Quality Act provides that any person who violates a permit condition of the Act is subject to civil or criminal penalties not to exceed \$25,000 per day or one year in prison, or both, for the first conviction, and \$50,000 per day of violation or by imprisonment for not more than two years, or both, for subsequent convictions. MCA 75-5-611(a) also provides for administrative penalties not to exceed \$10,000 for each day of violation and up to a maximum not to exceed \$100,000 for any related series of violations. Except as provided in permit conditions on Part III.G of this permit, "Bypass of Treatment Facilities" and Part III.H of this permit, "Upset Conditions", nothing in this permit shall be construed to relieve the permittee of the civil or criminal penalties for noncompliance.

C. Need to Halt or Reduce Activity not a Defense

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

D. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

E. Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. However, the permittee shall operate, as a minimum, one complete set of each main line unit treatment process whether or not this process is needed to achieve permit effluent compliance.

F. Removed Substances

Collected screenings, grit, solids, sludges, or other pollutants removed in the course of treatment shall be disposed of in such a manner so as to prevent any

1. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with technology based permit effluent limitations if the requirements of Part III.H.2 of this permit are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review (i.e., Permittees will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with technology-based permit effluent limitations).
2. Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - a. An upset occurred and that the permittee can identify the cause(s) of the upset;
 - b. The permitted facility was at the time being properly operated;
 - c. The permittee submitted notice of the upset as required under Part II.I of this permit, "Twenty-four Hour Notice of Noncompliance Reporting"; and
 - d. The permittee complied with any remedial measures required under Part III.D of this permit, "Duty to Mitigate".
3. Burden of proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

G. Signatory Requirements

All applications, reports or information submitted to the Department shall be signed and certified.

1. All permit applications shall be signed by either a principal executive officer or ranking elected official.
2. All reports required by the permit and other information requested by the Department shall be signed by a person described above or by a duly authorized representative of that person. A person is considered a duly authorized representative only if:
 - a. The authorization is made in writing by a person described above and submitted to the Department; and
 - b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters. (A duly authorized representative may thus be either a named individual or an individual occupying a named position.)
3. Changes to authorization. If an authorization under Part IV.G.2 of this permit is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part IV.G.2 of this permit must be submitted to the Department prior to or together with any reports, information, or applications to be signed by an authorized representative.
4. Certification. Any person signing a document under this section shall make the following certification:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

H. Penalties for Falsification of Reports

The Montana Water Quality Act provides that any person who knowingly makes any false statement, representation, or certification in any record or other

N. Fees

The permittee is required to submit payment of an annual fee as set forth in ARM 17.30.201. If the permittee fails to pay the annual fee within 90 days after the due date for the payment, the Department may:

1. Impose an additional assessment computed at the at the rate established under ARM 17.30.201; and,
2. Suspend the processing of the application for a permit or authorization or, if the nonpayment involves an annual permit fee, suspend the permit, certificate or authorization for which the fee is required. The Department may lift suspension at any time up to one year after the suspension occurs if the holder has paid all outstanding fees, including all penalties, assessments and interest imposed under this sub-section. Suspensions are limited to one year, after which the permit will be terminated.

O. Reopener Provisions

This permit may be reopened and modified (following proper administrative procedures) to include the appropriate effluent limitations (and compliance schedule, if necessary), or other appropriate requirements if one or more of the following events occurs:

1. Water Quality Standards: The water quality standards of the receiving water(s) to which the permittee discharges are modified in such a manner as to require different effluent limits than contained in this permit.
2. Water Quality Standards are Exceeded: If it is found that water quality standards or trigger values in the receiving stream are exceeded either for parameters included in the permit or others, the department may modify the effluent limits or water management plan.
3. TMDL or Wasteload Allocation: TMDL requirements or a wasteload allocation is developed and approved by the Department and/or EPA for incorporation in this permit.
4. Water Quality Management Plan: A revision to the current water quality management plan is approved and adopted which calls for different effluent limitations than contained in this permit.
5. Sewage Sludge: There have been substantial changes (or such changes are planned) in sludge use or disposal practices; applicable management practices or numerical limitations for pollutants in sludge have been promulgated which are more stringent than the requirements in this permit; and/or it has been determined that the permittee's sludge use or disposal practices do not comply with existing applicable state or federal regulations.

V. DEFINITIONS

1. **"Act"** means the Montana Water Quality Act, Title 75, chapter 5, MCA.
2. **"Administrator"** means the administrator of the United States Environmental Protection Agency.
3. **"Acute Toxicity"** occurs when 50 percent or more mortality is observed for either species (See Part I.C of this permit) at any effluent concentration. Mortality in the control must simultaneously be 10 percent or less for the effluent results to be considered valid.
4. **"Annual Average Load"** means the arithmetic mean of all 30-day or monthly average loads reported during the calendar year for a monitored parameter.
5. **"Arithmetic Mean" or "Arithmetic Average"** for any set of related values means the summation of the individual values divided by the number of individual values.
6. **"Average monthly limitation"** means the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.
7. **"Average weekly limitation"** means the highest allowable average of daily discharges over a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week.
8. **"BOD₅"** means the five-day measure of pollutant parameter biochemical oxygen demand.
9. **"Bypass"** means the intentional diversion of waste streams from any portion of a treatment facility.
10. **"CBOD₅"** means the five-day measure of pollutant parameter carbonaceous biochemical oxygen demand.
11. **"Composite samples"** means a sample composed of two or more discrete aliquots (samples). The aggregate sample will reflect the average quality of the water or wastewater in the compositing or sample period. Composite sample may be composed of constant volume aliquots collected at regular intervals (simple composite) or flow proportioned.
12. **"Daily Discharge"** means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass,

- b. Therefore causes a violation of any requirement of the POTW's MPDES permit (including an increase in the magnitude or duration of a violation) or causes the prevention of sewage sludge use or disposal in compliance with the following statutes and regulations: Section 405 of the Clean Water Act; 40 CFR Part 503 - Standards for the Use and Disposal of Sewage Sludge; Resource Conservation and Recovery Act (RCRA); 40 CFR Part 258 - Criteria for Municipal Solid Waste Landfills; and/or any State regulations regarding the disposal of sewage sludge.
25. **"Maximum daily discharge limitation"** means the highest allowable daily discharge.
26. **"Minimum Level"** (ML) of quantitation means the lowest level at which the entire analytical system gives a recognizable signal and acceptable calibration point for the analyte, as determined by the procedure set forth at 40 CFR 136. In most cases the ML is equivalent to the Required Reporting Value (RRV) unless otherwise specified in the permit. (ARM 17.30.702(22))
27. **"Mixing zone"** means a limited area of a surface water body or aquifer where initial dilution of a discharge takes place and where certain water quality standards may be exceeded.
28. **"Nondegradation"** means the prevention of a significant change in water quality that lowers the quality of high-quality water for one or more parameters. Also, the prohibition of any increase in discharge that exceeds the limits established under or determined from a permit or approval issued by the Department prior to April 29, 1993.
29. **"Pass through"** means a discharge which exits the POTW into waters of the State of Montana in quantities or concentrations which, alone or in conjunction with other discharges, is a cause of a violation of any requirement of the POTW's MPDES permit (including an increase in the magnitude or duration of a violation).
30. **"POTW"** means a publicly owned treatment works.
31. **"Regional Administrator"** means the administrator of Region VIII of EPA, which has jurisdiction over federal water pollution control activities in the state of Montana.
32. **"Severe property damage"** means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

NIR.8 AFFIDAVIT & CERTIFICATION

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	<u>Larry J. Bonderud</u>	Mayor	
Applicant Signature	<u><i>Larry J. Bonderud</i></u>		Date: <u>3/23/2015</u>
Printed Name	_____		
Applicant Signature	_____		Date: _____

WATER RESOURCES OFFICES

- | | | | |
|------------------|---|-------------------|---|
| BILLINGS: | AIRPORT INDUSTRIAL PARK, 1371 RIMTOP DR., BILLINGS MT 59105-1978
PHONE: 406-247-4415 FAX: 406-247-4416
SERVING: Big Horn, Carbon, Carter, Custer, Fallon, Powder River, Prairie, Rosebud, Stillwater, Sweet Grass, Treasure, and Yellowstone Counties | HELENA: | 1424 9TH AVE., PO BOX 201601, HELENA MT 59620-1601
PHONE: 406-444-6999 FAX: 406-444-9317
SERVING: Beaverhead, Broadwater, Deer Lodge, Jefferson, Lewis and Clark, Powell, and Silver Bow Counties |
| BOZEMAN: | 2273 BOOT HILL COURT, SUITE 110, BOZEMAN MT 59715
PHONE: 406-586-3136 FAX: 406-587-9726
SERVING: Gallatin, Madison, and Park Counties | KALISPELL: | 655 TIMBERWOLF PARKWAY, SUITE 4, KALISPELL MT 59901-1215
PHONE: 406-752-2288 FAX: 406-752-2843
SERVING: Flathead, Lake, Lincoln, and Sanders Counties |
| GLASGOW: | 222 6TH STREET SOUTH, PO BOX 1269, GLASGOW MT 59230-1269
PHONE: 406-228-2561 FAX: 406-228-8706
SERVING: Daniels, Dawson, Garfield, McCone, Phillips, Richland, Roosevelt, Sheridan, Valley, and Wibaux Counties | LEWISTOWN: | 613 NORTHEAST MAIN ST., SUITE E, LEWISTOWN MT 59457-2020
PHONE: 406-538-7459 FAX: 406-538-7089
SERVING: Cascade, Fergus, Golden Valley, Judith Basin, Meagher, Musselshell, Petroleum, and Wheatland Counties |
| HAVRE: | 210 6TH AVENUE, PO BOX 1828, HAVRE MT 59501-1828
PHONE: 406-265-5516 FAX: 406-265-2225
SERVING: Blaine, Chouteau, Glacier, Hill, Liberty, Pondera, Teton, and Toole Counties | MISSOULA: | 2705 SPURGIN RD. BLDG. C, PO BOX 5004, MISSOULA MT 59806-5004
PHONE: 406-721-4284 FAX: 406-542-5899
SERVING: Granite, Mineral, Missoula, and Ravalli Counties |

MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Water Resources Division - Water Rights Bureau
WEBSITE: <http://dnrc.mt.gov/wrd/>





March 30, 2015

Mr. Matt Miles
DNRC Water Resources Division
Havre Regional Office
210 Sixth Avenue
Havre, Montana 59501

**Subject: Submittal of Application to Change Seven Existing Non-Irrigation Water Rights and One Water Reservation, Year-Round Water Rights, Change Application Number 1
Change in Place of Use and Change in Point of Diversion for Municipal Water Rights 41P 192878 00, 41P 192880 00, 41P 192881 00, 41P 192882 00, 41P 4489 00, 41P 4490 00, and 41P 58129 00; and Water Reservation 41P 71891 00
Marias River – Basin 41P**

Dear Mr. Miles:

On behalf of the City of Shelby, HydroSolutions Inc (HydroSolutions), submits the change application package for the water rights and water reservation listed above. The purpose of the application is to change the place of use and points of diversion for seven water rights and one water reservation. The subject application is requesting a temporary change in place of use to include the City of Shelby, Cut Bank, Ethridge, Big Rose Colony, Devon, and Dunkirk. The City has developed a reliable water source with good water quality that has historically served and presently serves its residents and a portion of the surrounding community. The purpose of the temporary change application is to provide a reliable interim water source for communities surrounding Shelby until the Rocky Boy's/North Central Montana Regional Water Authority (NCRMWA) pipeline is in place. When the NCRMWA pipeline is completed and in service, the proposed changes would no longer be needed and these water rights would revert back to their current elements

No additional volume or flow is requested or required as part of this change application to the City of Shelby's municipal water rights and water reservation. Since the source of water is the same for each water right and waters comingle in the water treatment plant, a change in the point of diversion is requested.

This change application will be referenced as change application number 1. These water rights and water reservation make up the majority of the City's municipal water supply. There are two additional water rights (41P 192877 00 and 41P192879) corresponding to Wells 1 and 3 that have periods of use over half the year that will be changed under a separate application, which will be referenced as change application number 2.

Billings Office
PO Box 80866
Billings, MT 59108-0866
Phone: (406) 655-9555
Fax: (406) 655-0575

www.hydrosi.com

Helena Office
PO Box 1779
Helena, MT 59624
Phone: (406) 443-6169
Fax: (406) 443-6385

March 30, 2015

This application is organized into a submittal package following requirements of DNRC's Form No. 606 NIR (R 12-10-2012), Form 606-TCA (New 10-12-2012), and one supplemental attachment with supporting documentation. The package is submitted in hard copy and an electronic copy will be sent to you via email.

A pre-application meeting was completed with the DNRC Havre Regional Office on February 18, 2015. A check in the amount of \$700.00 is enclosed to process the application package. Please contact me with any questions on this application package or for additional information. You can reach me at (406) 443-6169, extension 105, or email at davidd@hydrosi.com.

Respectfully Submitted,



David Donohue, P.G.
Senior Hydrogeologist/Helena Office Manager

Attachment: Application to Change an Existing Non-Irrigation Water Right, PCCRC

Enclosure: Check for \$700.00 (Form No. 606 NIR)

CC: Mayor Larry Bonderud, City of Shelby
Abigail St. Lawrence, Bloomquist Law Firm

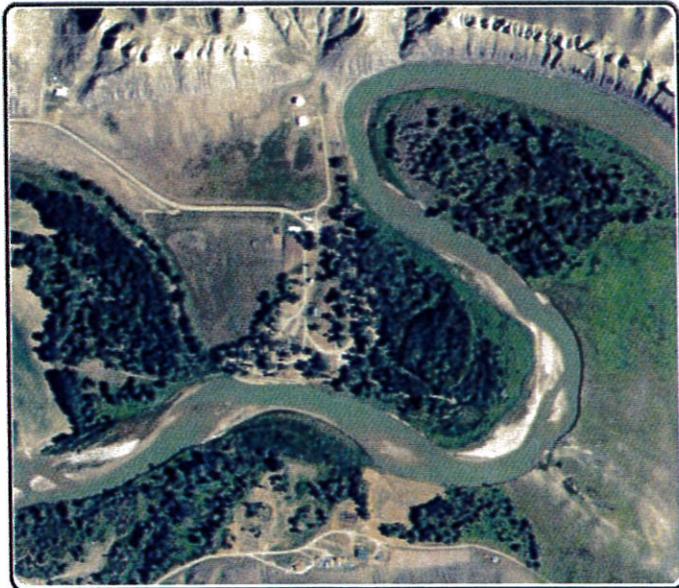
**City of Shelby
Change Application Number 1
Year-Round Water Rights**

**Application To Change Seven Existing Non-Irrigation Water Rights
and One Water Reservation**

**Change in Place of Use and Change in Point of Diversion
For Municipal Water Rights 41P 192878 00, 41P 192880 00,
41P 192881 00, 41P 192882 00, 41P 4489 00, 41P 4490 00, and
41P 58129 00**

And

**Water Reservation 41P 71891 00
Marias River – Basin 41P**



Prepared for:

Montana DNRC Water Resources
Division
Havre Regional Office
210 Sixth Avenue
Havre, Montana 59501

Prepared by:

HydroSolutions Inc
P.O. Box 1779
Helena, Montana 59624

**Hydro
Solutions Inc**



APPLICATION TO CHANGE AN EXISTING NON-IRRIGATION WATER RIGHT

FILING FEE

\$900.00 To change a point of diversion, place of use, purpose of use, or place of storage.

\$200.00 *(The following types do not qualify for a filing fee reduction)*

- Replacement well that exceeds 35 GPM or 10 AF per year
- Replacement municipal well that exceeds 450 GPM
- Replacement reservoir on the same source
- To move or add stock tanks to an existing system

FILING FEE REDUCTION

If you attend a pre-application meeting with DNRC staff and your application is submitted within 6 months of the meeting date, the filing fee will be reduced by \$200.00. The time period may be extended if measurements or an aquifer test is required.

Use this application to change the point of diversion, place of use, purpose of use, and/or place of storage of an existing non-irrigation water right. Attach additional sheets if necessary. Attachments must be labeled as shown in the sections below.

ADDENDUMS THAT MAY BE NEEDED

- Change to Instream Flow
- Change of Salvage Water
- Change in Purpose
- Temporary Change

FOR DEPARTMENT USE ONLY

Application # _____ Basin _____

Date Received _____

Time _____ AM / PM

Rec'd By _____

Fee Rec'd \$ _____ Check # _____

Deposit Receipt # _____

Payor _____

Refund \$ _____ Date _____

Applicant Name City of Shelby

Mailing Address 112 1st Street South

City Shelby State Montana Zip 59474

Phone Numbers: Home _____ Work _____ Cell _____

Email Address larry@shelbymt.com (Mayor Larry Bonderud)

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

Contact Name David Donohue, HydroSolutions Inc

Mailing Address P.O. Box 1779

City Helena State Montana Zip 59624

Phone Numbers: Home _____ Work 406-443-6169 x103 Cell _____

Email Address davidd@hydrosi.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 will receive all correspondence and a copy may be sent to the contact person.

CHANGE APPLICATION INFORMATION

A water right owner who wants to make a change to an existing water right must submit an application to the DNRC. The proposed change cannot create an adverse affect to other existing users who hold water rights that may have an earlier (senior) or later (junior) priority date than the Applicant's. If the application for change is granted, the Applicant's water right will retain its priority date.

A water right is valid if water was actually put to use historically. The water right is limited to the extent of that historical use. A water right cannot exist if it was never used, even if the water right is described on paper.

The information provided to the questions below is required for the Department to begin processing the application. The Department may require additional information during the processing of the application. For any questions, please contact a Water Resources Division Regional Office.

NIR.1 APPLICATION DETAILS - ARM 36.12.1901

NIR.1.A Check what element(s) of the water right(s) you are proposing to change.

- Point of Diversion
 Place of Use
 Purpose of Use (complete a *Change in Purpose* addendum)
 Place of Storage (complete a *Change in Storage* addendum)

NIR.1.B Provide the following information for the water right(s) you are proposing to change.

Water Right No. & Basin	Current Flow Rate			What is the Flow Rate needed for the project?		
	Flow Rate	CFS	GPM	Flow Rate	CFS	GPM
		<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
See Attachment NIR.1.B		<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>

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

NIR.1.D Yes No Are you proposing to change all of the historic water right(s) associated with the place of use? If no, attach an explanation of why not. Please label attachment **NIR.1.D Application Details**.

NIR.1.E Identify the water rights used on the place of use that are not included in this application.

Water Right No. & Basin	Priority Date	Water Right No. & Basin	Priority Date
See Attachment			J

NIR.2 MAP – ARM 36.12.111

Maps depicting the historic and proposed water system are required. Aerial photos may be available from the DNRC, NRIS, NRCS, USGS, and on the Internet and may be available from the 1940s up until today.

NIR.2.A Note the section corners, township, range, and add a north arrow to the map for all maps submitted.

NIR.2.B Historical Use - for each water right being changed, provide a map depicting the historic point(s) of diversion, means of conveyance, place of use, and place of storage. Be sure to identify the water right number on each map.

NIR.2.C Historical Use - if you measure water near the historical point of diversion or place of use, please identify where the measurement occurs.

NIR.2.D Proposed Use - provide a map which clearly identifies the proposed point(s) of diversion, place of use, and place of storage. For partial changes, the map should reflect the entire water right including the proposed change and the remaining historic use.

NIR.3 HISTORIC USE - ARM 36.12.1902

For the questions below, describe the historic use of the water right or the current use if a change authorization was previously granted on the water right. The description of the historic use depends on the type of water right being changed. Historic use for a Statement of Claim or for an exempt non-filed right must be described as it was used prior to July 1, 1973. Historic use for provisional permits and certificates of water right must be described as was used at the filing date of the completion notice.

The historic consumptive use is the amount of water that was diverted from the source minus the amount of water that returns to a water source.

The Department will calculate the diverted volume and the consumptive volume.

Complete the following information for each water right being changed.

NIR.3.A Attach a description of how the system operated from the point of diversion through the place of use. Include a description of wastewater collection and treatment used, if any. Please label attachment **NIR.3.A Historic Use**.

NIR.3.B Attach a description of the uses (i.e. domestic, stock, irrigation of parks, industrial, commercial, etc.) and provide a narrative detailing the approximate amount of water associated with those uses. Please label attachment **NIR.3.B Historic Use**.

NIR.3.C What has been used to convey the water to the place of use?

Conveyance (ditch/pipeline) See Attachment Size _____ Length _____

Conveyance (ditch/pipeline) See Attachment Size _____ Length _____

NIR.3.D What is your diversion method type and capacity?

Diversion See Attachment and Table NIR.3.A Capacity _____ GPM/CFS

NIR.3.E How did you determine the capacity? See Attachment

NIR.3.F How often do you divert water? See Attachment

NIR.3.G What is the duration of each diversion? Days/year See Attachment Hours/day _____

NIR.3.H If wastewater is discharged, what amount of water is discharged? See Attachment GPM/CFS

NIR.3.I Yes No Do you measure water near the existing point of diversion or near/at your place of use? If yes, what type of measuring device do you use? See Attachment

NIR.3.J Yes No Do you have water commissioner, water measurement records available, or other documents that support the amount of water you have historically diverted or used? If yes, please submit that information and label attachment **NIR.3.J Historic Use**.

NIR.3.K Yes No Do you supplement your water usage with water from another water right? If yes, attach an explanation of that water right and how and when it is used to supplement this water right. Please label attachment **NIR.3.K Historic Use**.

NIR.4 ADVERSE EFFECT – ARM 36.12.1903

- NIR.4.A Attach an explanation of how all points of diversion will be operated in order to not exceed historical diverted flow rate? Please label attachment **NIR.4.A Adverse Effect**.
- NIR.4.B Attach an explanation of what your plan is to not create an adverse effect to existing water rights, certificates, permits, and water reservations? Please label attachment **NIR.4.B Adverse Effect**.
- NIR.4.C Attach an explanation of when the last time water was appropriated and used beneficially to the extent identified in your water right? If there has been a period of non-use, explain why the water right was not used, and explain why a resumption of use will not adversely affect other water users. Please label attachment **NIR.4.C Adverse Effect**.

NIR.5 ADEQUATE DIVERSION MEANS AND OPERATION – ARM 36.12.1904

- NIR.5.A Yes No Is the means of diversion a well? If yes, provide a copy of the well log. If the well log is not available, who drilled the well? See Attachment
- NIR.5.B Yes No Is another agency requiring you to measure your water use? If yes, explain. See Attachment
- NIR.5.C Yes No Do you have any plans to measure your diversion and use? If yes, attach a description of the plan and the type of measurements you will take. Please label attachment **NIR.5.C Adequate Diversion Means and Operation**.
- NIR.5.D For applications that propose new conveyance facilities, provide preliminary design plans and specifications for the proposed diversion and conveyance facilities and the equipment used to put the water to beneficial use.

NIR.6 GENERAL PROJECT PLAN & PROPOSED COMPLETION PERIOD

- NIR.6.A How many years will you need to complete this project? 10 years

NIR.7. CHANGE APPLICATION ADDENDUMS

Check yes or no if any of the following addendums are applicable:

- Yes No **Change to Instream Flow**: Required if your proposed project includes a change to instream flow.
- Yes No **Change of Purpose**: Required if the change application is to change the purpose of a water right.
- Yes No **Change of Salvage Water**: Required if the change application includes appropriation of water made available for use from an existing valid water right through creation of a water-saving method.
- Yes No **Temporary Change**: Required if the change application is to be for a temporary period of time.

NIR.8 AFFIDAVIT & CERTIFICATION

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 _____

Applicant Signature _____ Date: _____

Printed Name _____

Applicant Signature _____ Date: _____

WATER RESOURCES OFFICES

BILLINGS: AIRPORT INDUSTRIAL PARK, 1371 RIMTOP DR., BILLINGS MT 59105-1978
PHONE: 406-247-4415 FAX: 406-247-4416
SERVING: Big Horn, Carbon, Carter, Custer, Fallon, Powder River, Prairie, Rosebud, Stillwater, Sweet Grass, Treasure, and Yellowstone Counties

HELENA: 1424 9TH AVE., PO BOX 201601, HELENA MT 59620-1601
PHONE: 406-444-6999 FAX: 406-444-9317
SERVING: Beaverhead, Broadwater, Deer Lodge, Jefferson, Lewis and Clark, Powell, and Silver Bow Counties

BOZEMAN: 2273 BOOT HILL COURT, SUITE 110, BOZEMAN MT 59715
PHONE: 406-586-3136 FAX: 406-587-9726
SERVING: Gallatin, Madison, and Park Counties

KALISPELL: 655 TIMBERWOLF PARKWAY, SUITE 4, KALISPELL MT 59901-1215
PHONE: 406-752-2288 FAX: 406-752-2843
SERVING: Flathead, Lake, Lincoln, and Sanders Counties

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

LEWISTOWN: 613 NORTHEAST MAIN ST., SUITE E, LEWISTOWN MT 59457-2020
PHONE: 406-538-7459 FAX: 406-538-7089
SERVING: Cascade, Fergus, Golden Valley, Judith Basin, Meagher, Musselshell, Petroleum, and Wheatland Counties

HAVRE: 210 6TH AVENUE, PO BOX 1828, HAVRE MT 59501-1828
PHONE: 406-265-5516 FAX: 406-265-2225
SERVING: Blaine, Chouteau, Glacier, Hill, Liberty, Pondera, Teton, and Toole Counties

MISSOULA: 2705 SPURGIN RD. BLDG. C, PO BOX 5004, MISSOULA MT 59806-5004
PHONE: 406-721-4284 FAX: 406-542-5899
SERVING: Granite, Mineral, Missoula, and Ravalli Counties

MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Water Resources Division - Water Rights Bureau
WEBSITE: <http://dnrc.mt.gov/wrd/>

Attachment 606 NIR-1 Supporting Information

The City of Shelby is submitting this application to the Tennessee Department of Environment and Conservation (TDEC) for approval of a change in place of use and change in point of diversion for seven existing non-irrigation water rights and one water reservation. The water rights are located in the Marias River Basin and are currently used for municipal water supply. The City of Shelby is currently using these water rights to supply water to the City of Shelby and its surrounding areas. The City of Shelby is currently using these water rights to supply water to the City of Shelby and its surrounding areas.

**City of Shelby
Change Application Number 1**

**Application To Change Seven Existing Non-Irrigation Water Rights
and One Water Reservation**

**Change in Place of Use and Change in Point of Diversion
For Municipal Water Rights 41P 192878 00, 41P 192880 00,
41P 192881 00, 41P 192882 00, 41P 4489 00, 41P 4490 00, and
41P 58129 00**

And

Water Reservation 41P 71891 00

Marias River – Basin 41P

Supporting Attachments

1. Attachment 606 NIR-1 Supporting Information
2. Attachment 606 NIR-2 Temporary Change Addendum; Form 606-TCA
3. Well Logs
4. KLJ Well Field Pumping Test Report
5. KLJ Water System Modeling report
6. Water service area design and record drawings

Attachment 606 NIR-1 Supporting Information	1
Attachment 606 NIR-2 Temporary Change Addendum; Form 606-TCA	2
Well Logs	3
KLJ Well Field Pumping Test Report	4
KLJ Water System Modeling report	5
Water service area design and record drawings	6

Attachment 606 NIR-1 Supporting Information

Introduction

This attachment provides additional information to support the Form 606 Application to Change a Non-Irrigation Water Right (NIR) as part of the City of Shelby (City or Shelby) application to temporarily change their municipal water rights. The Form 606 NIR is submitted to change the place of use and point of diversion of existing municipal water rights 41P 192878 00, 41P 192880 00, 41P 192881 00, 41P 192882 00, 41P 4489 00, 41P 4490 00, and 41P 58129 00 and water reservation 41P 71891 00 for the City. This change application will be referenced as change application number 1. These water rights and water reservation make up the majority of the City's municipal water supply. There are two additional water rights (41P 192877 00 and 41P192879) corresponding to Wells 1 and 3 that have periods of use over half the year that will be changed under a separate application, which will be referenced as change application number 2.

The City has developed a reliable water source with good water quality that has historically served and presently serves its residents and a portion of the surrounding community. The purpose of the two temporary change applications is to provide a reliable interim water source for communities surrounding Shelby until the Rocky Boy's/North Central Montana Regional Water Authority (NCRMWA) pipeline is in place. When the NCRMWA pipeline is completed and in service, the proposed changes would no longer be needed and these water rights would revert back to their current elements.

The City draws all its municipal water from a well field south of Shelby along the north side of the Marias River consisting of 13 wells completed in alluvial deposits. Water is pumped from individual wells and is comingled during treatment and transmission and then pumped and distributed to meet municipal demands. Wells 1 through 8 each have separate water rights with individual points of diversion and overlapping places of use. Wells 9 through 13 together form the ninth municipal water right for the City with common points of diversion and a smaller but overlapping place of use with Wells 1 to 8. The City's water reservation does not list any specific points of diversion, but states that up to 8 new wells can be installed. The water rights included in this change application and their current place of use is listed in Table NIR-1. Throughout this application, the water right numbers may also be referred to by well number (well name).

Table NIR-1.

Water Right	Well Number	Place of Use
41P 192878 00	2	T32N, R2W, Section 21, 22, 27, 28
41P 192880 00	4	T32N, R2W, Section 21, 22, 27, 28
41P 192881 00	5	T32N, R2W, Section 21, 22, 27, 28
41P 192882 00	6	T32N, R2W, Section 21, 22, 27, 28
41P 4489 00	7	T32N, R2W, Section 21, 22, 27, 28
41P 4490 00	8	T32N, R2W, Section 21, 22, 27, 28
41P 58129 00	9,10,11,12,13	T32N, R2W, Section SE1/4 21, S1/2 22, 27, E1/2 28
41P 71891 00	None	T32N, R2W, Section 21, 22, 27, 28

This change application is submitted in order to change the place of use and point of diversion for each subject water right and the City's water reservation. This application would change the place of use so that water historically used within the City of Shelby along with reserved water could serve the City of Shelby, the Crossroads Correctional Facility (prison) along with the communities of Devon, Dunkirk, Ethridge, and Big Rose Colony as their primary water source. The requested change in place of use would also include the City of Cut Bank, which would be provided a source of water supplemental to their existing water source. . A change in the point of diversion is requested to better represent the historical and operational nature of Shelby's well field since all water is comingled and the well field is operated as one unit to meet municipal demands. Separating out a specific water right from the place of use is not possible since all water originating from the City's well field is mixed during treatment and transmission and is shared among all water distribution areas. In total, two separate water right change applications are submitted concurrently. Change application number 1 addresses seven existing year round City of Shelby municipal water rights and one water reservation. Change application number 2 addresses two existing City of Shelby municipal partial year water rights. The outline below follows Form 606 NIR.

NIR.1 Application Details - ARM 36.12.1901

NIR.1.A Application Details

A change in place of use and point of diversion is proposed.

NIR.1.B Application Details

Table NIR.1.B

Water Right No.	Well No.	Current Flow Rate (GPM)	What is the Flow Rate needed for the project? (GPM)
41P 192878 00	2	300	300
41P 192880 00	4	300	300
41P 192881 00	5	350	350
41P 192882 00	6	250	250
41P 4489 00	7	250	250
41P 4490 00	8	250	250
41P 58129 00	9,10,11,12,13	1,850	1,850
41P 71891 00	None	(103.23 - amount permitted under Reservation)	103.23

NIR.1.C Application Details

Attach a narrative explaining specific details of the requested change(s) to the water right and why it is being requested.

Water Rights 41P 192878 00, 41P 192880 00, 41P 192881 00, 41P 192882 00, 41P 4489 00, 41P 4490 00, 41P 58129 00, and Reservation 41P 71891 00:

The Form 606 NIR is submitted to change the place of use and point of diversion of existing municipal water rights 41P 192878 00, 41P 192880 00, 41P 192881 00, 41P 192882 00, 41P 4489 00, 41P 4490 00, and 41P 58129 00 and water reservation 41P 71891 00 for the City of

Shelby. These seven water rights and one water reservation make up the majority of the City's municipal water supply. There are two additional water rights (41P 192877 00 and 41P192879) corresponding to Wells 1 and 3 that have periods of use over half the year that will be changed under a separate application.

This change application is intended address expected changes to the City's municipal water service area or place of use as nearby communities look to them for a reliable source of good quality water. The application also changes the point of diversion for all seven water rights and water reservation to common points of diversion that would be shared amongst all of the water rights and the reservation. The need exists to change the points of diversion and place of use for the following reasons. The proposed change:

- 1) Provides a critical and reliable water source to multiple communities until the NCMRWA pipeline is built.
- 2) Changes the point of diversion on each water right so that all wells are recognized as multiple points of diversion on each water right. Since all municipal water comingles during treatment and transmission, this change better reflects actual use of the well field.
- 3) Changes the point of diversion on the water reservation to the existing well field and eliminates the need to drill new wells. The flow rate and volume of the water reservation would be shared amongst all of the existing wells.
- 4) Changes the place of use for each of the existing water rights to better reflect actual historic use outside of the City's designated place of use including use at the prison; and adds the communities of Devon, Dunkirk, Ethridge, Big Rose Colony, and the City of Cut Bank.
- 5) Changes the place of use for the water reservation to include locations served by the City outside of the designated place of use; and adds the communities of Devon, Dunkirk, Ethridge, Big Rose Colony, and the City of Cut Bank.
- 6) Would not exceed the City's maximum historic diverted or consumptive use plus water reservation.

Water Reservation:

This application is submitted by the City of Shelby to initiate use of its water reservation as part of its current and near future water needs. The City of Shelby applied for this water reservation under Montana Law, Sections 85-2-316 and 85-2-331, and was granted this water reservation for municipal use with a priority date of July 1, 1985. Because of the planned expansion of the City of Shelby water service area since granting of this water reservation, this change application will address the change in place of use from the place of use identified in original water reservation. In addition, the City of Shelby does not plan to drill a new well to perfect this point of diversion for this reservation. The existing wells within the City of Shelby well field have sufficient capacity to include this water reservation flow rate and volume into its pumping schedule, thus this application is submitted to make this change.