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July 27, 2026

Dear Smith River Basin Water Right Owner,

You have received this letter because you own a water right junior in priority to Montana Fish, Wildlife & Parks' instream flow water rights for the Smith River. Flow in the river has fallen below levels required by FWP's instream flow rights. An abstract(s) for your junior water right(s) is enclosed.

Under the water right priority system of Montana water law, standard procedure for allocating water during time of shortage is for the older (senior) water right holder (in this case FWP) to require you as the newer (junior) water user to cease using your junior water right immediately. This approach does not consider other water management or conservation measures that some water users are already taking.

FWP is aware that voluntary and informal water management and drought responses are used in several river basins of Montana. Senior water users are in some cases already making significant reductions in water diversion in order to maintain flow in the rivers during times of drought.

If you have already ceased using this junior water right or reduced the use of senior water rights to help maintain streamflow your efforts are greatly appreciated. If you have not taken steps to mitigate or cease diversion of water under your junior water right, FWP requests that you either:

- cease use of this junior water right, or
- seek a means to offset or mitigate your use of that junior water right.

Mitigation examples:

1. You have a newer but junior irrigation system that is critical to your operation and is more efficient than a more senior water right. Perhaps you might "trade water". Some irrigators cease or reduce the diversion under a senior water right to offset the continued use of the more efficient, cost effective, and often more productive irrigation system operated under a junior water right.

2. Use of water in a pond operated under a junior water right could be similarly mitigated. Ditch losses and evaporative losses from the ponds decrease pond outflow. The quantity of water returned to the source is also reduced. Again, if you also have a senior irrigation right, a reduction in the amount of water being diverted for irrigation could offset the flow reduction caused by evaporation from the pond.
3. If you don't have a senior irrigation right to offset the use of your junior water right, collaborating with a neighbor who does have a senior right and working out a reduction in use of that right is an option. (Such agreements can be formalized under Montana's law via the temporary change of use provisions.)

Use of your junior right must either stop, or that use must be mitigated until stream flow in the Smith River is at least 140 cfs at the Smith River below Eagle Creek stream gage through August 31st and 125 cfs after that date.

You can determine current flow that gage at the following link:

<https://waterdata.usgs.gov/monitoring-location/USGS-06077200/#dataTypeId=continuous-00060-0&period=P7D>.

Long-term flow records indicate that under present water supply conditions, flow in the Smith River generally does rise above FWP's instream flow water right until October or later.

If you have any questions or ideas regarding this issue, please contact Andy Brummond at 406-708-7223 or at abrummond@mt.gov.

Sincerely,



Christy Clark
Director

Montana Dept. Fish, Wildlife and Parks

c: DNRC- Water Resources Regional Office