



**Item:** Gibson Park Water Right 41Q 105494-00  
**Initiated By:** Montana Department of Natural Resources and Conservation  
**Presented By:** Jim Rearden, Director of Public Works  
**Action Requested:** Approve Amendment to Water Right Claim

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**Suggested Motion:**

1. Commissioner moves:

“I move that the City Commission approve the submission of a motion to amend water right 41Q 105494-00 to a flow rate of 900 gallons per minute.”

2. Mayor calls for a second, discussion, inquiries from the public, and calls for the vote.

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**Staff Recommendation:** Staff recommends that the City Commission approve the submission of a motion to amend the Gibson Park Water Right claim to reduce the claimed flow rate from 1000 gallons per minute (gpm) to 900 gpm in accordance with an analysis by Department of Natural Resources and Conservation (DNRC) staff.

**Background:** The State of Montana is currently reviewing water rights claims in Basin 41Q, which includes the Missouri River below its confluence with the Sun River. Included in the basin is the water right claim for the Gibson Park irrigation system (41Q 105494-00), which also serves as the water source for Gibson Pond. DNRC staff reviewed the elements of this claim including the priority date, volume, period and place of use and questioned the flow rate being claimed.

This review resulted in an “Issue Remark” being entered on the water rights claim stating “The claimed flow rate cannot be confirmed due to a lack of data”. The City then received an Order from the Water Court requiring the City to meet with personnel from the DNRC. The Order further required that if the City and DNRC are able to resolve the issue remark, the City must file documents to support the resolution with the Water Court.

Through conversations with DNRC and by providing information about the City’s facilities, City staff and DNRC agree that actual withdrawal rates from the river associated with this claim do not exceed 900 gpm and therefore the claim can be amended from 1000 gpm to this flow rate with no harm to the City’s operation. No change to the volume of water in this claim is being made.

**Concurrences:** Staff discussed this issue with water rights attorney Steve Brown. Mr. Brown advised that, as long as City operations are not impacted, it would be in the City's best interest to resolve the issue remark at this stage of the adjudication process.

**Fiscal Impact:** None.

**Alternatives:** The City could choose to disagree with the proposed amendment. In this case the City would risk that the unresolved issue remark could attract objections in the Water Court process and may even open the City up to having this right reduced further, depending on documentation of historic use.

**Attachments/Exhibits:** (Not available online; on file in City Clerk's Office.)

- Montana Water Court Order requiring DNRC conference.
- DNRC Memorandum.
- Proposed motion to amend water rights claim.