

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:

Julene & Jack Berman
1580 Meridian Rd
Victor, MT 59875-9760

Lee Yelin
c/o Water Rights Inc
P.O. Box 9285
Missoula, MT 5980

2. Type of action: Application to Change a Water Right No. 76H-30110926
3. Water source name: Fred Burr Creek
4. Location affected by project: Section 18, T7N, R20W, Ravalli County
5. Narrative summary of the proposed project, purpose, action to be taken, and benefits:

Applicant proposes to add a place of storage and change a portion of the place of use for irrigation Statement of Claim Nos. 76H-10110-00 and 76H-10111-00. The applicant proposes to add a 0.68-acre storage reservoir and reduce their portion of the place of use for irrigation from 12.48 to 9.25 acres; the storage reservoir and 9.25-acre place of use for irrigation are located within the historical place of use for irrigation in the SW of Section 18, T7N, R20W, Ravalli County. A portion of the acreage proposed for removal, 1.23 acres, has been converted to a homesite and lawn and garden which are serviced through a groundwater well. The remaining acreage proposed for removal includes 1.32 acres on the southeast corner of the property and the 0.68 acres taken up by the storage reservoir. The applicant is the final user on this segment of ditch and with the exception of the additional reservoir, current irrigation practices will remain unchanged. The period of diversion and period of use will remain the same for both water rights proposed for change: April 15th to October 19th.

6. Agencies consulted during preparation of the Environmental Assessment:

Montana Natural Heritage Program
Montana Department of Fish, Wildlife and Parks
Montana Department of Environmental Quality

Species of Concern
2005 Dewatered Stream List
303(d) list of impaired streams

Part II. Environmental Review

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.*

Fred Burr Creek is not listed as chronically or periodically dewatered by Montana Fish, Wildlife & Parks. The applicant is the last user of water on their section of ditch for these two statements of claim that are delivered via a water commissioner. There are no additional acres that can be developed for the purpose of irrigation and acres that will continue to be irrigated are part of the historical place of use and there are no proposed changes to the historic pattern of diversions.

Determination: No impact.

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.*

Fred Burr Creek in the Bitterroot Basin is not listed as water quality impaired or threatened by DEQ. In addition, this area has been irrigated since 1874 and the proposed addition of a 0.68-acre reservoir and 3.23-acre reduction in irrigated lands will not result in an increase in the amount of diverted or consumed water. The proposed reservoir and reduction in irrigated acres will not result in a change to water quality as there is no change in the proposed place of use and the reservoir will serve as a sediment sink prior to water passing downgradient.

Determination: No impact.

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: N/A – the proposed change is for existing surface water rights.

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.*

The applicant will install a 0.68-acre off-channel reservoir and reduce irrigated acres by 3.23. This reservoir will not impact any channels or result in flow modifications as it is located off of the main source. Inflows will equal outflows minus pumping rates once the pond has been filled during springtime diversions and thus, will not create a barrier to flows continuing down the ditch and returning to the source that they historically returned to. The reservoir was created through excavation of materials and there is no dam controlling the impoundment of water. The

proposed change will not impact any channels, cause adverse effects due to flow modifications, create any barriers to flow, or impact any riparian areas, dams, or existing wells.

Determination: No impact.

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.”*

The Montana Natural Heritage Program (MNHP) was contacted to determine if there are any threatened or endangered fish, wildlife, plants or aquatic species or any “species of special concern”, that could be impacted by the proposed project. The MNHP identified the following animal species: Great Blue Heron, Bald Eagle, Lewis’s Woodpecker, Pileated Woodpecker, Clark’s Nutcracker, Brown Creeper, Veery, Varied Thrush, Bobolink, Cassin’s Finch, Westslope Cutthroat Trout, Bull Trout, Little Brown Myotis, Townsend’s Big-eared Bat, Western Skink, and non-cave bat roost important animal habitat.

The location of the 0.68-acre reservoir and 9.25 acres of irrigation have been under irrigated since 1874. Any impacts to the above listed sensitive species have likely already occurred as a result of prior land conversion. It is unlikely that any additional impacts will occur as a result of the proposed change.

Determination: No significant impact.

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

The proposed project does not create or impact any wetlands.

Determination: No impact.

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

The proposed 0.68-acre reservoir may potentially provide additional habitat for wildlife or waterfowl. The reservoir will be used to store water for irrigation and will not be stocked with fish, nor will it have any connectivity with the nearest surface water source such that fish will be able to migrate to the reservoir.

Determination: No significant impact.

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.*

Soils at the 9.25-acre place of use have been irrigated from Fred Burr Creek since 1874 and will not be further degraded or altered through continued irrigation. Soils at the place of use are nonsaline and thus, unlikely to be susceptible to saline seep.

Determination: No impact.

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.*

The 0.68-acre pond and remaining 9.25-acres of irrigation are all within the historical place of use. Continued irrigation will reduce the opportunity for noxious weed invasion as crops are maintained.

Determination: No impact

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

Deterioration of air quality and/or adverse effects on vegetation due to increased air pollutants is not expected. Water will be diverted from the reservoir using an electric motor and therefore, emissions and/or increased noise levels associated with irrigation from the reservoir will be minimal.

Determination: No significant impact.

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.*

N/A – project not located on State or Federal Lands.

Determination: No impact.

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

All impacts to land, water, and energy have been identified and no additional impacts are anticipated.

Determination: No impact.

HUMAN ENVIRONMENT

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

The Department finds no locally adopted environmental plans or goals relevant to the requested change in point of diversion and place of use.

Determination: No impact.

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.*

The proposed project will not inhibit, alter or impair access to the present recreational opportunities in the area. The project is not expected to create any significant pollution, noise, or traffic congestion in the area that may alter the quality of recreational opportunities.

Determination: No impact.

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

No impacts to human health were identified.

Determination: No impact.

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

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

Determination: No impact.

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? None identified.
- (b) Local and state tax base and tax revenues? Maintenance of activities at the place of use may continue to provide for the tax base of this area.
- (c) Existing land uses? None identified.
- (d) Quantity and distribution of employment? None identified.

- (e) Distribution and density of population and housing? None identified.
- (f) Demands for government services? None identified.
- (g) Industrial and commercial activity? None identified.
- (h) Utilities? None identified.
- (i) Transportation? None identified.
- (j) Safety? None identified.
- (k) Other appropriate social and economic circumstances? None identified.

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

Secondary Impacts: None identified.

Cumulative Impacts: None identified.

3. *Describe any mitigation/stipulation measures:*

No reasonable alternatives were identified in the EA.

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:*

No alternative identified.

PART III. Conclusion

1. Preferred Alternative: N/A

2 Comments and Responses: N/A

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:

An EA is the appropriate level of analysis for this proposed action because no significant impacts have been identified as a result of the proposed action.

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

Name: Amy Groen

Title: Hydrologist/Specialist

Date: February 9, 2018