

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: Lester and Renetta Phillippi
PO Box 344
Hammond, MT 59332
2. Type of action: Application to Temporarily Change Existing Water Right #39E
30149181
3. Water source name: Soda Creek
4. Location affected by project: Section 12, T6S, R56E, Carter County
5. Narrative summary of the proposed project, purpose, action to be taken, and benefits:

The Applicant proposes to change the purpose on 6.14 AF of Statement of Claim 39E 121693-00 to marketing in order to sell water to Denbury Green Pipeline-Montana LLC for a period of one year ending on December 31, 2021. The source of water is a reservoir on Soda Creek in Section 12, T6S, R56E, Carter County. The Applicant proposes to reduce the volume of water used for stock purpose by 6.14 AF by reducing the herd size in pastures with access to the reservoir from 220 AU to 37 AU during the period of use for marketing between June 15, 2021 and December 31, 2021. The place of use for marketing is the point of diversion from the reservoir in the SENESW of Section 12, T6S, R56E, Carter County. The DNRC shall issue a change authorization if an applicant proves the criteria in 85-2-402 MCA are met.

6. Agencies consulted during preparation of the Environmental Assessment:
(include agencies with overlapping jurisdiction)
Montana Department of Natural Resources and Conservation
Montana Department of Fish, Wildlife, and Parks
Montana Department of Environmental Quality
Montana Sage Grouse Habitat Conservation Program
Montana Natural Heritage Program
United States Natural Resource Conservation Service

Part II. Environmental Review

1. Environmental Impact Checklist:

PHYSICAL ENVIRONMENT

WATER QUANTITY, QUALITY AND DISTRIBUTION

Water quantity – Soda Creek is not listed as chronically or periodically dewatered by the Montana Department of Fish, Wildlife, and Parks but is classified as an intermittent stream. The intermittent nature of the source indicates that it is dewatered at times. An on-stream reservoir diverts water when it is available. The proposed temporary change in use to marketing of a portion of an existing water right will not increase in the amount withdrawn and will not change the depletion to the source or quantity of water available.

Determination: No significant impact

Water quality – Soda Creek is not listed as water quality impaired or threatened by the Montana Department of Environmental Quality. The proposed change in use of water withdrawn from the on-stream reservoir for marketing will not impair the water quality on this source. Water marketed to Denbury Green Pipeline-Montana LLC will be used for dust suppression. This use will not impact water quality.

Determination: No significant impact

Groundwater – A change in the use of a portion of water impounded by a reservoir from stock to marketing will have no impact on groundwater. Stock and marketing uses are both 100% consumptive and no changes in return flow will occur.

Determination: No significant impact

DIVERSION WORKS - The means of diversion is an existing on-stream reservoir located in the SW Section 12, T6S, R56E, Carter County. For the proposed temporary change, marketed water would be pumped from the reservoir by the buyer into trucks to be used for dust suppression. The diversion has been in place since 1947.

Determination: No significant impact

UNIQUE, ENDANGERED, FRAGILE OR LIMITED ENVIRONMENTAL RESOURCES

Endangered and threatened species – According to the Montana Natural Heritage Program, there are 6 animal species of concern and 1 special status species in the proposed project area. Animal species of concern include Golden Eagle, Chestnut-collared Longspur, Greater Sage-Grouse, Long-billed Curlew, Brewer’s Sparrow, and Sauger. The Bald Eagle is a special status species in the area. There are no plant species of concern. The proposed change of use to marketing will not impact any habitat for the listed species. No barriers to migration or

movement of wildlife will be created because the dam already exists, and the stream is intermittent. According to the Montana Sage Grouse Habitat Conservation Map, this project is within core area sage grouse habitat. The project is consistent with the Montana Sage Grouse Conservation Strategy according to a letter from Carolyn Sime, Project Manager, dated March 5, 2020.

Determination: No significant impact

Wetlands – According to the US Fish and Wildlife Service National Wetlands Inventory, freshwater emergent wetlands border the reservoir. The reservoir was constructed in 1947. A temporary change in use from stock to marketing should not result in any significant impact to wetland areas near the reservoir.

Determination: No significant impact

Ponds – The existing on-stream reservoir would serve as the point of diversion for this temporary change in use from stock to marketing. The reservoir has been in place since 1947. There are no new ponds proposed for this change application. The change in use of a portion of water withdrawn from the reservoir will have no significant impact on the reservoir or any ponds in the surrounding area.

Determination: No significant impact

GEOLOGY/SOIL QUALITY, STABILITY AND MOISTURE – According to the USDA Natural Resources Conservation Service, the predominant soil type in the project area is Harlake silty clay loam, 0 to 2 percent slopes. This soil is well drained and moderately saline to strongly saline. There should be no change in saline seep from the proposed change in use from stock to marketing. There are no anticipated adverse impacts associated with the geology or soil type in the project area.

Determination: No significant impact

VEGETATION COVER, QUANTITY AND QUALITY/NOXIOUS WEEDS – Existing vegetative cover around the reservoir is rangeland used for stock grazing. The proposed change of use to marketing, which would involve pumping water from the reservoir and filling of water trucks for dust abatement, may contribute to the establishment and spread of noxious weeds. It is the responsibility of the property owner to monitor for and implement measures for noxious weed control.

Determination: No significant impact

AIR QUALITY – The temporary change in purpose from stock to marketing will not adversely affect air quality. The proposed change in use of water to marketing for dust suppression is intended to protect air quality.

Determination: No impact

HISTORICAL AND ARCHEOLOGICAL SITES – NA-project not located on State or Federal Lands.

Determination: Not applicable

DEMANDS ON ENVIRONMENTAL RESOURCES OF LAND, WATER, AND ENERGY - No additional demands on environmental resources are recognized.

Determination: No impact

HUMAN ENVIRONMENT

LOCALLY ADOPTED ENVIRONMENTAL PLANS AND GOALS – There are no known locally adopted environmental plans or goals.

Determination: Not applicable

ACCESS TO AND QUALITY OF RECREATIONAL AND WILDERNESS ACTIVITIES – The proposed project is located on privately owned agricultural land. The project will not impact access to recreational or wilderness activities.

Determination: No impact

HUMAN HEALTH – No impacts to human health have been identified for the proposal to change the use of a portion of the water withdrawn from the reservoir from stock to marketing purpose.

Determination: No impact

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

Yes ___ No x ___ 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? No significant impact

(b) Local and state tax base and tax revenues? The value of the marketed water is potentially greater than the value of agricultural production available from the stock use and may increase tax revenue. Denbury Green Pipeline-Montana LLC's pipeline project will likely increase the tax base and revenue.

- (c) Existing land uses? No significant impact
- (d) Quantity and distribution of employment? The proposed use of water for marketing for dust suppression during pipeline construction is likely to result in a temporary increase in local employment.
- (e) Distribution and density of population and housing? A temporary increase in population density and demand for housing may result due to pipeline construction.
- (f) Demands for government services? No significant impact
- (g) Industrial and commercial activity? The marketed water would allow for construction of the pipeline and increase industrial activity in the area. The proposed sale of the water would require trucks to haul the water and result in a temporary increase in commercial traffic.
- (h) Utilities? No significant impact
- (i) Transportation? Commercial traffic along the pipeline right-of-way and access roads will increase due to pipeline construction and operation.
- (j) Safety? No significant impact
- (k) Other appropriate social and economic circumstances? No significant impact

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

Secondary Impacts: Marketing of water to Denbury Green Pipeline-Montana LLC has potential secondary impacts associated with construction, testing and operation of the pipeline. The pipeline has undergone environmental analysis independent of this change to market water.

Cumulative Impacts: No cumulative impacts are recognized

3. *Describe any mitigation/stipulation measures:* None.

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:* The alternative to the proposed project is the no action alternative. The no action alternative prevents the property owner from the financial benefits of marketing water and prevents the buyer from obtaining water for dust suppression. The no action alternative does not prevent or mitigate any significant environmental impacts.

PART III. Conclusion

1. *Preferred Alternative:* Issue the change authorization if the applicant proves the criteria in 85-2-402 MCA are met.

2. **Comments and Responses:** None

3. **Finding:**

Yes__ No_x_ Based on the significance criteria evaluated in this EA, is an EIS required?

There are no significant impacts associated with temporarily changing a portion of an existing water right from stock use to marketing so an environmental assessment is the appropriate level of analysis. The secondary impacts of selling the water to Denbury Green Pipeline-Montana LLC are possibly substantial, however, the statutory timeline for Departmental action on change applications precludes preparation of an EIS. Environmental impacts attributable to the use of marketed water are the responsibility of the end user.

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

Name: Jill Lippard

Title: Water Resource Specialist

Date: 8/5/2020