

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: Connor Beach, PO Box 545, Baker, MT 59313
2. Type of action: Application to Change an Existing Water Right 39FJ 30146744
3. Water source name: Groundwater
4. Location affected by project: Section 33, T5N, R59E and Section 1, T4N, R59E, Fallon County
5. Narrative summary of the proposed project, purpose, action to be taken, and benefits: The Applicant plans to temporarily change the purpose on 9% of Provisional Permit 39FJ 30109703 to marketing in order to market that water to TransCanada Keystone Pipeline LC for a period of two years ending on April 26, 2021. The 9% is equivalent to 33.075 AF. The Applicant will measure water use and cease diversion when the volume reaches 312.6, the volume authorized on the original water right less the 33.075 AF changed to marketing. Marketed water will be used along the TransCanada Keystone Pipeline right-of-way in Fallon 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 Fish, Wildlife and Parks  
Montana Department of Environmental Quality  
Montana Department of Natural Resources and Conservation  
Montana Natural Heritage Program  
Montana Sage Grouse Habitat Conservation Program  
United States Fish and Wildlife Service  
United States Natural Resources Conservation Service

**Part II. Environmental Review**

**1. Environmental Impact Checklist:**

**PHYSICAL ENVIRONMENT**

**WATER QUANTITY, QUALITY AND DISTRIBUTION**

**Water quantity** – The source of water for this project is groundwater. The surface water potentially depleted by the project is Dry Creek, an intermittent source approximately 0.1 miles to the east. Dry Creek is not listed as a chronically or periodically dewatered stream by the Montana Department of Fish, Wildlife and Parks. The intermittent character of the stream implies that at some times it is dewatered. Water in the Dry Creek drainage basin is typically diverted by water spreading systems or impounded in on-stream reservoirs when it is available. Depletion of Dry Creek by the proposed project will not change the timing or severity of dewatering. Marketing of some of the water withdrawn from the pit, without increasing the withdrawal, will not change the depletion to Dry Creek or quantity of groundwater available.

*Determination:* No significant impact

**Water quality** – Marketing use of groundwater impounded in a gravel pit will not affect surface water quality. Dry Creek, the potentially depleted surface water source is not listed by the Montana Department of Environmental Quality as quality impaired or threatened. Water marketed to TransCanada will be used for dust suppression and hydrostatic testing. These activities have no potential to affect water quality.

*Determination:* No significant impact

**Groundwater** – The proposed project would use groundwater flowing into an active gravel pit. The dewatering of the gravel pit reduces groundwater supply in the region but the use of that water for irrigation and/or marketing would have no additional effect. Changing the use of the groundwater from irrigation to marketing would not impact groundwater quality. Some water used for irrigation returns to the groundwater through infiltration. Marketed water will not return to the groundwater and a slight decrease in groundwater quantity may occur. The proposed project will deplete Dry Creek, an intermittent stream just to the east of the gravel pit. The surface water quantity and quality are discussed above.

*Determination:* No significant impact

**DIVERSION WORKS** – The means of diversion is an existing gravel pit from which marketed water would be pumped by the buyer. The diversion is not on any channel, includes no riparian areas, does not involve dams and will not create a barrier to wildlife. Marketed water used for dust suppression would be pumped into trucks at the gravel pit.

*Determination:* No significant impact

#### **UNIQUE, ENDANGERED, FRAGILE OR LIMITED ENVIRONMENTAL RESOURCES**

**Endangered and threatened species** – Based on a search parameter of T5N, R59E, Fallon County, the Montana Natural Heritage Program lists the Great Blue Heron, Ferruginous Hawk and Greater Sage Grouse as animal species of concern. There are no listed plant species of concern. Use of groundwater for marketing will not impact any habitat for the listed species. No barriers would be created and the depletion to Dry Creek would not affect fish because the stream does not flow perennially. Although the Greater Sage Grouse is listed as a species of concern in T5N, R59E, Fallon County, mapping by the Montana Sage Grouse Habitat Conservation Program does not include the project area in Sage Grouse habitat. Water marketed

to TransCanada will be used along the proposed pipeline right-of-way which includes areas mapped as Sage Grouse habitat. TransCanada Keystone Pipeline LP will be required to consult with the Montana Sage Grouse Habitat Conservation Program if they have not already done so.

*Determination:* No significant impact

**Wetlands** – There are no mapped wetlands in the project area and no wetlands are proposed. Apparently swampy areas exist in places along Dry Creek potentially due to irrigation return flow, but due to the intermittent character of the creek, these are not functioning wetlands. The presence of wetlands along the pipeline right-of-way is unknown.

*Determination:* No impact

**Ponds** – The existing gravel pit that would serve as the means of diversion for the proposed appropriation is the only pond in the area. No additional ponds are proposed. The open water represented by the gravel pit would tend to have a positive impact on wildlife and waterfowl. Ponds proposed for creation or elimination by TransCanada along the pipeline right-of-way were not indicated in the change application.

*Determination:* Possible positive impact

**GEOLOGY/SOIL QUALITY, STABILITY AND MOISTURE** – The dominant soils in the project area are Eapa-Yamacall loams and other sandy or silty loams according to soil maps from the United States Natural Resources Conservation Service. These soils are well drained and non-saline to very slightly saline. The slopes in the area are low and changing some irrigation water to the purpose of marketing will not alter the soil stability. Changing a portion of the water right to marketing has no potential to affect or cause saline seep.

*Determination:* No significant impact

**VEGETATION COVER, QUANTITY AND QUALITY/NOXIOUS WEEDS** – Existing vegetative cover in the area of the point of diversion and place of use requested in the change application is agricultural crops. There will be no change to the vegetative cover. Installation of pumps and transportation of marketed water has the potential to introduce noxious weeds. It will be the responsibility of the land owner to monitor and control noxious weeds.

*Determination:* No significant impact

**AIR QUALITY** – Marketing a portion of an existing water right has no potential to negatively affect air quality. Dust suppression, one of the proposed uses of marketed water, is specifically intended to protect air quality.

*Determination:* No impact

**HISTORICAL AND ARCHEOLOGICAL SITES** – The proposed project is not on State or Federal Lands.

*Determination:* Not applicable

**DEMANDS ON ENVIRONMENTAL RESOURCES OF LAND, WATER, AND ENERGY** – No other demands on environmental resources no addressed above are recognized.

*Determination:* No significant impact

## HUMAN ENVIRONMENT

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

*Determination:* Not applicable

**ACCESS TO AND QUALITY OF RECREATIONAL AND WILDERNESS ACTIVITIES** – There are no roads to or through the proposed project area and no recreational or wilderness sites in the vicinity.

*Determination:* No impact

**HUMAN HEALTH** – Marketing a portion of an existing water right has no potential to affect human health.

*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 significant 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 probably greater than the value of agricultural production available from the irrigation use and would increase tax revenue. TransCanada's pipeline would also increase the tax base and revenue.

- (c) Existing land uses? No significant impact
- (d) Quantity and distribution of employment? Use of the marketed water to allow construction and testing of a pipeline would temporarily increase local employment.
- (e) Distribution and density of population and housing? Temporary increases in the population would occur along the pipeline right-of-way and additional housing would be required on a temporary basis.
- (f) Demands for government services? No significant impact
- (g) Industrial and commercial activity? The marketed water would allow for construction and operation of the pipeline increasing industrial activity. Sale of the water would require trucks to haul the water and a temporary increase in commercial traffic.
- (h) Utilities? No significant impact
- (i) Transportation? Trucking of water would increase use of public infrastructure.
- (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 TransCanada Keystone Pipeline LC has potential secondary impacts associated with construction, testing and operation of the pipeline. The pipeline has undergone extensive environmental analysis independent of this change to market water. Many of the secondary impacts attributable to the use of the marketed water are addressed above.

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 only alternative to the proposed project is the no-action alternative. The no-action alternative prevents the landowner from selling a portion of his water right and deprives the land owner of financial benefit. The no-action alternative does not prevent any significant environmental impacts associated with the sale of water.

**PART III. Conclusion**

**1. *Preferred Alternative:*** Issue a change authorization if an 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?

*If an EIS is not required, explain why the EA is the appropriate level of analysis for this proposed action:* No significant environmental impacts to changing a portion of a water right for the purpose of marketing were recognized in the preparation of this environmental assessment and therefore the assessment is the appropriate level of analysis and an Environmental Impact Statement is not required. The secondary impacts of selling the water to TransCanada Keystone Pipeline LC 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:* Mark Elison

*Title:* Regional Manager

*Date:* 1/15/2020