

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

Applicant/Contact name and address: Gibbs Land, LLC
904 Weldon Road
Circle, MT 59215

1. *Type of action:* Application to Change Water Right No. 40S-30126841
2. *Water source name:* Unnamed Tributary of Prairie Elk Creek, East Fork
3. *Location affected by action:* SWSWNW Sec 2, Twp 21N, Rge 46E, McCone County
4. *Narrative summary of the proposed project, purpose, action to be taken, and benefits:*
Applicant proposes to temporally change the place of use and purpose for Statement of Claim 40S 8614-00. Statement of Claim 40S 8614-00 has Historically diverted water by means of a reservoir to water 400 animal units (AU). Onstream Reservoirs are not decreed flow rates. Stock claims are not decreed volumes. The Applicant is proposing to retire 200 AU to accommodate the proposed change of purpose and place of use. The Applicant is proposing to temporary add the purpose to Water Marketing for industrial use. The new temporary place of use will be the point of sale in the S2SWNW Sec 2, T21N, R46E, McCone County. The point of diversion and place of storage will remain the same.

The DNRC shall issue a water use permit if the applicant proves the criteria in 85-2-311, MCA are met.

5. *Agencies consulted during preparation of the Environmental Assessment:*
(include agencies with overlapping jurisdiction)

Montana Department of Environmental Quality (DEQ)
Montana Natural Heritage Program (website)
Montana Department of Environmental Quality Website (TMDL 303d Listing)
USDA Web Soil Survey
National Wetlands Inventory

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.

This reach of Unnamed Tributary of Prairie Elk Creek, East Fork has not been identified by the Department of Fish, Wildlife, & Parks (FWP) as chronically or periodically dewatered. The proposed change is unlikely to alter the current condition of the river, therefore no significant impacts to water quantity related to this application have been identified.

Determination: No significant 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.

Water Quality information on Unnamed Tributary of Prairie Elk Creek, East Fork is not available from the Department of Environmental Quality (DEQ). The proposed project will not have any significant effect on water quality.

Determination: No significant 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: This surface water appropriation should have no significant impact on groundwater in the area.

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 diversion means consists of a dam build in the late 1940s. There will not be any new construction on this project that will impact the channel or stream flows.

Determination: No significant 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 identified a list of eight animal species of concern within the township and range that the project is in. The BLM identifies the Sprague’s Pipit, Golden Eagle, Chestnut-collared Longspur, Baird’s Sparrow, Black-billed Cuckoo, Loggerhead Shrike, and McCown’s Longspur as sensitive. The Great Blue Heron is identified S3 by the state.

No plant species were identified as species of special concern within the identified project area.

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 only wetland identified within the project area is Unnamed Tributary of Prairie Elk Creek, East Fork.

Determination: No significant impact

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

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.*

The soil type at the points of diversion is Ustic torriorents-Ustic torrifluvents association. It is identified as not prime farmland. The soil’s salinity is not identified. It is not anticipated that there will be degradation to the soil nor development of a saline seep caused by development of this project.

Determination: No significant 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.*

No vegetation was listed as endangered or threatened by the USFWS for the project area. The control of noxious weeds is the responsibility of the property owner.

Determination: No significant impact

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

Determination: The secondary diversion pump will not cause a significant deterioration of air quality as a result of this temporary change.

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. If it is not on State or Federal Lands simply state NA-project not located on State or Federal Lands.*

Determination: NA-project not located on State or Federal Lands.

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

Determination: No additional impacts on other environmental resources were identified.

HUMAN ENVIRONMENT

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

Determination: There are no known local environmental plans or goals in this area.

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.*

Determination: This project will have no significant impact on recreational or wilderness activities.

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

Determination: This project will have no significant impact on human health.

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: There are no additional government regulatory impacts on private property rights associated with this application.

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 ? No significant impact.
- (c) Existing land uses ? No significant impact.
- (d) Quantity and distribution of employment ? No significant impact.
- (e) Distribution and density of population and housing ? No significant impact.
- (f) Demands for government services ? No significant impact.
- (g) Industrial and commercial activity ? No significant impact.
- (h) Utilities ? No significant impact.
- (i) Transportation ? No significant impact.
- (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: No secondary impacts have been identified.

Cumulative Impacts: No cumulative impacts have been identified.

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:* Under the no action alternative, the applicant would not have the benefit of water for this project. The applicant would be unable to market water.

PART III. Conclusion

- 1. *Preferred Alternative:*** Issue a water use permit if the applicant proves the criteria in 85-2-311, MCA are met.
- 2. *Comments and Responses***
- 3. *Finding:***
Based on the significance criteria evaluated in this EA, is an EIS required? No

If an EIS is not required, explain why the EA is the appropriate level of analysis for this proposed action: No significant impacts have been identified, therefore an EIS is not necessary.

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

Name: Todd Netto

Title: Water Resource Specialist

Date: June 2, 2020