

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: Spring Creek Coal, LLC, PO Box 67 Lakeshore Drive, Decker, MT 59025
2. Type of action: Application for Beneficial Water Use Permit 42B 30070358
3. Water source name: Unnamed Tributary to Pearson Creek
4. Location affected by project: Section 1 T9S, R39E
5. Narrative summary of the proposed project, purpose, action to be taken, and benefits: The applicant proposes to divert water from an unnamed tributary to Pearson Creek, by means of a dam and onstream reservoir, from January 1 through December 31 up to 796 AF, from a point in the SENENE Section 1 T9S R39E, Big Horn County, for industrial use from January 1 through December 31. The place of use is generally located Section 13, 14, 15, 21, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35, and 36 T8S R39E, Section 19, 29, 30, 31, 32 T8S R40E, Section 6 T9S R40E, Section 3, 4, 9, 10, 15, 16, 21, 22, 28, 29, 32, and 33 T9S R39E and Section 1 T10S R38E. The Applicant proposes a storage reservoir with design volume of 290.68 AF located in the NENE Section 1, T9S R39E, Big Horn County. The Applicant will construct this reservoir as part of flood control permitted as part of their ongoing mining operation. This application is to use the water impounded for beneficial use. The DNRC shall issue a water use permit if an applicant proves the criteria in 85-2-311 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
United States Fish and Wildlife Service
Montana Natural Heritage Program
United States Department of Agriculture, National Resource Conservation Service

Part II. Environmental Review

1. Environmental Impact Checklist:

PHYSICAL ENVIRONMENT

WATER QUANTITY, QUALITY AND DISTRIBUTION

Water quantity – The Unnamed Tributary (UT) to Pearson Creek is not identified as a chronically or periodically dewatered stream by the Department of Fish, Wildlife, and Parks. The creek is ephemeral flowing only during snow melt and precipitation events. The Spring Creek Mine will impound water from this creek as part of flood control under their mining permit regardless of whether or not they have a beneficial use permit.

Determination: No Impact

Water quality – The UT to Pearson Creek is not listed as water quality impaired or threatened by the Montana Department of Environmental Quality. The construction of a dam and use of the water for industrial purposes will not impact the water quality. Discharge of water used on the mine site is regulated under the mining permit.

Determination: No Impact

Groundwater – The proposed project does not involve groundwater and will not affect the quality or quantity of groundwater.

Determination: No Impact.

DIVERSION WORKS – The project proposes to build a dam across the UT and impound all water that comes down the creek. As such, the project will impact the channel, modifying flow and dewatering the creek, and creating a barrier to migration. Because the creek is ephemeral, the flow modifications and barrier will not impact any aquatic species. Because the dam will be constructed under the Spring Creek mine permit, the beneficial use permit will not add any impact. The beneficial use of water from the proposed reservoir would be by truck mounted mobile pumps with little to no impact.

Determination: No Impact.

UNIQUE, ENDANGERED, FRAGILE OR LIMITED ENVIRONMENTAL RESOURCES

Endangered and threatened species – Thirteen species of animal were listed as sensitive by either the United States Forest Service or the United States Bureau of Land Management according to the Montana Natural Heritage Program on 12/30/2014. This included the Townsends Big-eared Bat, the Black-tailed Prairie Dog, the Golden Eagle, the Burrowing Owl, the Greater Sage Grouse, the Loggerhead Shrike, the Sage Thrasher, the Brewer's Sparrow, the Spiny Softshell, the Snapping Turtle, the Plains Hog-nosed Snake, the Western Milksnake, and the Greater Short-horned Lizard. As of 12/30/2014 the only listed plant species of concern in the potentially impacted area is Barr's Milkvetch. The project would not generally impact habitat and the creation of a year-round water source and associated riparian habitat would likely be beneficial to all wildlife.

Determination: No Impact.

Wetlands – There are no wetlands in the area of the project with the notable exception of the Tongue River Reservoir. This project would add an open water body and support adjacent riparian growth and potential wetlands.

Determination: No Impact.

Ponds – The creation of a reservoir on the UT would provide a year-round source of water for wildlife. There are no plans to stock the reservoir or to release water from the reservoir, There are no fisheries in the UT due to its ephemeral character.

Determination: No Impact.

GEOLOGY/SOIL QUALITY, STABILITY AND MOISTURE – The primary soil type in the project area is hilly or rolling Midway-Thedalund complex. These soils are non-saline, well drained and dominantly composed of loam. Slopes in the area can be significant. The creation of a dam on the UT to Pearson Creek and reservoir will not cause saline seep or decrease soil stability. Soil moisture may increase adjacent to the reservoir due to seepage.

Determination: No Impact.

VEGETATION COVER, QUANTITY AND QUALITY/NOXIOUS WEEDS – The current vegetative cover in the area is limited due to arid climate. There are scrub Junipers, some riparian grasses and dryland prairie grass. The proposed project would remove some vegetation in the area of the reservoir and flood a relatively limited area. The equipment necessary to construct the dam could introduce or spread noxious weeds. It will be the responsibility of the land owner to monitor and control noxious weeds.

Determination: No Impact.

AIR QUALITY – The impoundment of water in the proposed reservoir has no potential to impact air quality. There may be dust in the air during construction of the reservoir but one of the proposed uses of the water is dust suppression.

Determination: No Impact.

HISTORICAL AND ARCHEOLOGICAL SITES – This project is not located on State or Federal Lands.

Determination: Not Applicable.

DEMANDS ON ENVIRONMENTAL RESOURCES OF LAND, WATER, AND ENERGY – Because of the proximity of this reservoir to the place of use, the mine will use less energy pumping water from this reservoir than they currently use pumping from the Tongue River Reservoir.

Determination: No Impact.

HUMAN ENVIRONMENT

LOCALLY ADOPTED ENVIRONMENTAL PLANS AND GOALS - There are no known local environmental plans and goals. The mine is governed by a State of Montana mining permit that addresses reclamation and environmental requirements.

Determination: No Impact.

ACCESS TO AND QUALITY OF RECREATIONAL AND WILDERNESS ACTIVITIES - The proposed reservoir is not served by any roads and is not a designated wilderness or recreational site. The Tongue River Reservoir is only a few miles to the east but no access to the reservoir crosses the project area and the creation of a reservoir on the UT would not alter the quality of local recreation.

Determination: No Impact.

HUMAN HEALTH - There are no predicted impacts on 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: Not Applicable.

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 resulting from the creation of an onstream reservoir on the UT to Pearson Creek are recognized.

Cumulative Impacts: Spring Creek Coal LLC has four other beneficial water use applications pending at present. They also have a change authorization pending. All of these applications are to use beneficially the water that they will have to impound as part of mining operations. The total cumulative impact of granting all of the applications would only be to allow the mine to save on energy costs associated with pumping. Granting or denying the applications for beneficial water use will not change the fact that the reservoirs will be constructed.

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 project as proposed is the no action alternative. The no-action alternative would only preclude the applicant from using the water impounded in the dams they will construct as part of their mining operations. The no-action alternative would prevent the applicant from acquiring a dependable water source and saving energy costs associated with pumping water.

PART III. Conclusion

1. *Preferred Alternative:* Issue a water use permit if an applicant proves the criteria in 85-2-311 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: An environmental assessment is the appropriate level of analysis for this proposed action because no significant impacts were indicated.

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

Name: Mark Elison
Title: Hydrologist/Specialist
Date: 2/2/2015