

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 to Change Water Right 42B 30070372
3. Water source name: Tongue River Reservoir
4. Location affected by project: Sections 34 and 35 T8S, R40E
5. Narrative summary of the proposed project, purpose, action to be taken, and benefits: The applicant proposes to add two points of diversion to water right 42B 30065135. 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 sump house located near the shore of the reservoir located in section 35 T8S R40E and a mobile or floating pump on or near the shore located in section 34, T8S R40E, both in Big Horn County. The Applicant has been unable to access the point of diversion in the original water right because of easement issues. 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  
Montana Department of Natural Resources and Conservation

**Part II. Environmental Review**

**1. Environmental Impact Checklist:**

**PHYSICAL ENVIRONMENT**

## **WATER QUANTITY, QUALITY AND DISTRIBUTION**

**Water quantity** – The Tongue River Reservoir is not identified as a chronically or periodically dewatered water body by the Department of Fish, Wildlife, and Parks.

*Determination:* No Impact

**Water quality** – The Tongue River Reservoir is not listed as water quality impaired or threatened by the Montana Department of Environmental Quality. The construction of a sump house and use of the water for industrial purposes will not generally impact the water quality although turbidity may be increased during construction. Discharge of water used on the mine site is regulated under the mining permit.

*Determination:* No Significant 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 sump house and pit on the shore of the Tongue River Reservoir. The project will not impact any channel, modify flow in any stream or create a barrier to migration. Pipelines connecting the pump sites to the mine site will be buried. Construction of the pump site and installation of piping will temporarily affect turbidity in the reservoir.

*Determination:* No Significant Impact.

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

**Endangered and threatened species** – Fourteen 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 Greater Sage Grouse, the Loggerhead Shrike, the Sage Thrasher, the Brewer's Sparrow, the Snapping Turtle, the Plains Hog-nosed Snake, the Western Milksnake, the Greater Short-horned Lizard, the Great Plains Toad, the Plains Spadefoot and the Sauger. The Yellow-billed Cuckoo is listed as threatened and a species of special status. There are no listed plant species of concern in the potentially impacted area. The project would not generally impact habitat after construction and only temporarily and locally during construction.

*Determination:* No Impact.

**Wetlands** – There are no wetlands in the area of the project with the notable exception of the Tongue River Reservoir.

*Determination:* No Impact.

**Ponds** – There are no natural ponds in the area of the project with the notable exception of the Tongue River Reservoir. Spring Creek Coal LLC. has created several small ponds as part of mining operations.

*Determination:* No Impact.

**GEOLOGY/SOIL QUALITY, STABILITY AND MOISTURE** – The primary soil types in the project area are hilly Thedalund-Wibaux stony loam and Wibaux – Spearman complex. These soils are non-saline, well drained and dominantly composed of loam. Slopes in the area can be significant. The creation of a sump house and pumping site will not cause saline seep or decrease soil stability.

*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 pumping sites. The equipment necessary to construct the pumping pit and sump house 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 pumping of water from the Tongue River Reservoir has no potential to impact air quality. There may be dust in the air during construction but one of the proposed uses of the water is dust suppression.

*Determination:* No Impact.

**HISTORICAL AND ARCHEOLOGICAL SITES** – This project is located in part on State Lands. Archaeological site 24BH2317 is located partially within the project area of potential effect. A professional assessment of project related impacts and effects will be made prior to commencement of construction activities, and adverse effects will be mitigated per the terms established by the DNRC.

*Determination:* Possible Impact.

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

*Determination:* No Impact.

<b>HUMAN ENVIRONMENT</b>
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**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 pumping sites are not served by public roads and are not in a designated wilderness or recreational site. Recreation sites on the Tongue River Reservoir are located immediately to the north but no access to the sites crosses the project area and the pump house would be designed to blend with recreational construction and would not be visible from the majority of recreational areas.

*Determination:* No Significant 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 pumping sites on the Tongue River Reservoir are recognized.

Cumulative Impacts: Spring Creek Coal LLC has five beneficial water use applications pending at present. All of these applications are to use beneficially the water that they will have to impound or manage 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.

**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 accessing water they need as part of their mining operations and were granted under water right 42B 30065135. The no-action alternative would prevent the applicant from acquiring a dependable water source.

**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: 2/18/2015