

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:

APPLICANT:

SUN WEST RANCH PROPERTY OWNERS ASSN
3 GILDRED LN
CAMERON, MT 59720

CONSULTANT:

WATER RIGHT SOLUTIONS INC
303 CLARKE ST
HELENA, MT 59601-6286

2. Type of action: APPLICATION TO CHANGE A WATER RIGHT NO. 41F 30070510. The Applicant proposes to temporarily change the purpose, point of diversion (POD), and place of use (POU) of an irrigation right and a stock right to instream flow for the benefit of fisheries in Second Standard Creek.
3. Water source name: SECOND STANDARD CREEK, tributary to Madison River.
4. Location affected by project: SECTIONS 28, 29, 33, T10 S, R01 E, MADISON COUNTY. The affected reach of Second Standard Creek is approximately 0.42 miles long and empties into the Madison River. The project area is located approximately 30 miles south of Ennis in Madison County.

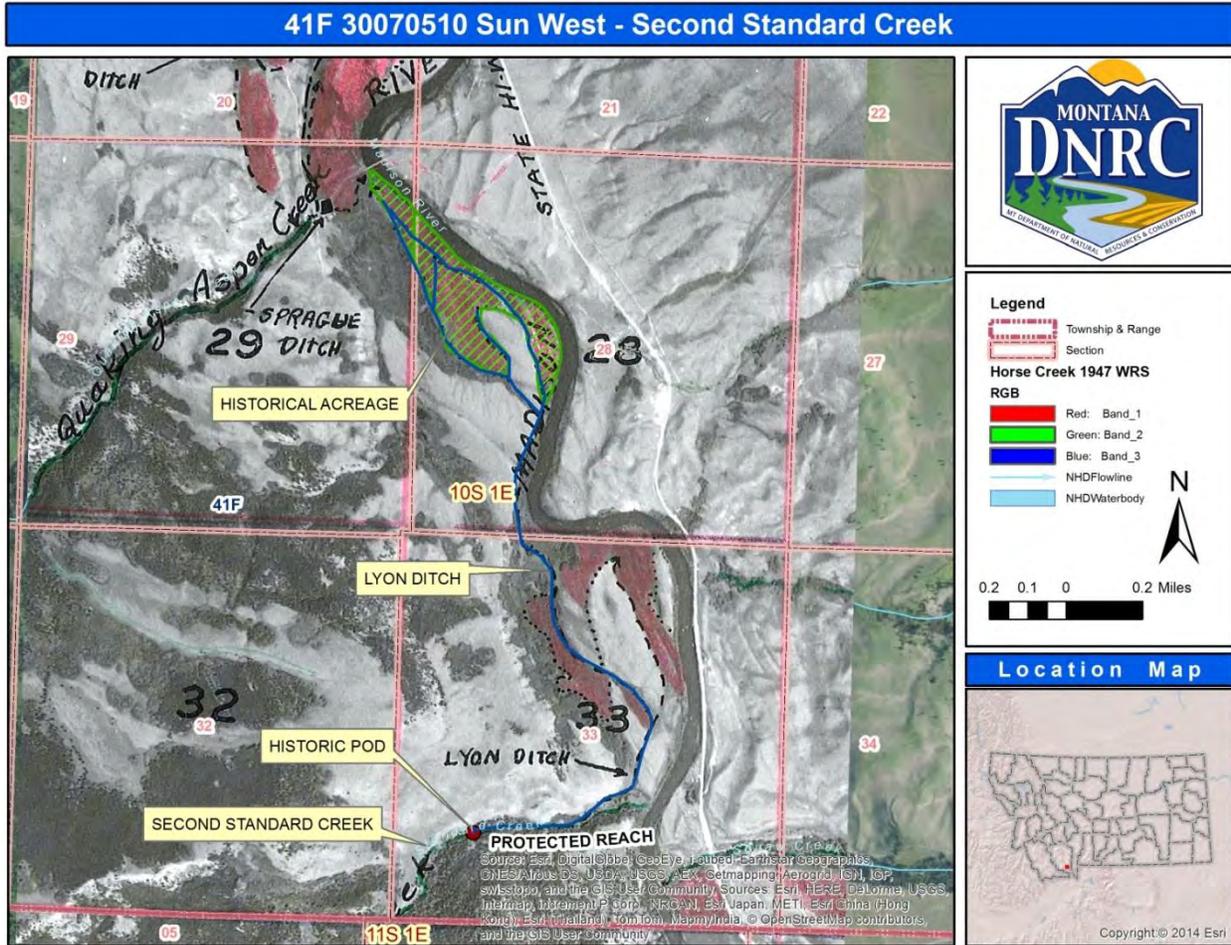


Figure 1: Map of location affected by project. Historic use map, 1954 Madison County Water Resources Survey (1947 aerial imagery).

5. Narrative summary of the proposed project, purpose, action to be taken, and benefits:

The Applicant proposes to temporarily change the purpose, POD, and POU of irrigation water right 41F 30066080 to instream flow for the benefit of fisheries in Second Standard Creek. Concurrently, the applicant proposes to temporarily change the purpose, POD, and POU of stock water right 41F 127289-00 to instream flow for the benefit of fisheries in Second Standard Creek. The POD and POU would be temporarily changed to the reach that extends from a point in the SENESW of Section 33 to the confluence of Second Standard Creek and the Madison River in the SWNWSE of Section 33; both T10 S, R01 E, Madison County. Under the temporary change, all irrigation and stock use would be discontinued, and water would no longer be diverted and would instead be left instream for the benefit of fisheries in Second Standard Creek. The protected stream reach is approximately 0.42 miles in length.

The Department shall issue a change authorization if the Applicant proves the criteria in §85-2-402, MCA, are met.

6. Agencies consulted during preparation of the Environmental Assessment:
- Montana Department of Fish, Wildlife & Parks (FWP) – Montana Fisheries Information System (MFISH)
 - <http://fwp.mt.gov/fishing/mFish/>
 - Montana Department of Environmental Quality (DEQ) – Clean Water Act Information Center (CWAIC)
 - <http://deq.mt.gov/wqinfo/CWAIC/default.mcpX>
 - Montana National Heritage Program (MTNHP) – Species of Concern:
 - <http://mtnhp.org/SpeciesOfConcern>
 - U.S. Fish & Wildlife Service (USFWS) – National Wetlands Inventory Wetlands Mapper
 - <http://www.fws.gov/wetlands/Data/Mapper.html>
 - Natural Resource Conservation Service (NRCS) – Web Soil Survey (WSS)
 - <http://websoilsurvey.sc.egov.usda.gov/App/HomePage.htm>

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.*

Determination: No significant impact identified. As determined by a search of MFISH conducted on January 28, 2015, Second Standard Creek is not listed as chronically or periodically dewatered by DFWP. Second Standard Creek is a tributary to the Madison River, which is impounded by Hebgen Dam to form Hebgen Lake. The Madison River’s flow is controlled by the dam, and the Madison is not listed as chronically or periodically dewatered. The Applicant filed this application in order to leave water in Second Standard Creek for the benefit of fisheries. Letters of support from DFWP and Urbani Fisheries, LLC, indicate that this change would have a positive impact on any dewatering concerns by leaving additional water instream.

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.*

Determination: No significant impact identified. According to a search of the DEQ CWAIC website conducted on January 28, 2015, no water quality data is available for Second Standard Creek. The nearest reach of the Madison River, from Earthquake Lake to Ennis Lake, has been assessed by DEQ as fully supporting all beneficial uses. Letters of support from FWP and Urbani Fisheries, LLC, indicate that this change could improve water quality, specifically reducing summer water temperatures in Second Standard Creek and the Madison River, which occasionally reach levels dangerous for trout. Furthermore, since irrigation and crop production will be discontinued under this change, return flows now left instream may have reduced nutrient and sediment loading, in addition to lower temperatures. Changing the stock right to instream

flow may also improve water quality in the same manner, because water that was historically diverted into a ditch will now be left instream.

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: No significant impact identified. The change of an irrigation right to an instream right will not significantly impact groundwater quality or supply. A Return Flow Report indicated that this change will alter return flow timing. However, this analysis also indicated that, for the historically irrigated POU, all return flows accrued to the Madison River within two months after being applied. Return flows will no longer accrue because water will be left instream, but the timing difference will not have a significant impact on groundwater quality or supply.

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.*

Determination: No significant impact identified. Pursuant to §85-2-402(2)(b)(ii), MCA, the proposed change is to maintain or enhance stream flows to benefit a fishery resource, so no diversion is required. Leaving water instream instead of diverting it may have positive effects on the hydraulic regime of the creek. The only channel impacts, flow modifications, or effects on riparian areas should be positive by allowing more water to flow in the creek.

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."*

Determination: No significant impact identified. According to a search of the Montana Heritage Program's website on January 28, 2015, 12 animal Species of Concern may be found within the project area: Wolverine, Grizzly Bear, Northern Goshawk, Sprague's Pipit, Golden Eagle, Cassin's Finch, Clark's Nutcracker, Long-billed Curlew, Green-tailed Towhee, Brewer's Sparrow, Westslope Cutthroat Trout, and Gillette's Checkerspot. MTNHP did not identify any animal Potential Species of Concern. One animal Special Status Species may be found within the project area: Bald Eagle.

Five plant Species of Special Concern may be found within the project area: Railhead Milkvetch, Spiny Skeletonweed, Mealy Primrose, Many-flowered Viguiera, and Beaked Spikerush. No plant Potential Species of Concern or Special Status Species were identified within the area.

The proposed project is to cease diverting water from Second Standard Creek for irrigation and instead leave it instream for the benefit of fisheries. Letters of support from FWP and Urbani Fisheries, LLC, indicate that the proposed change would significantly benefit fisheries by improving access and habitat for spawning trout from the Madison, maintaining cooler summer

water temperatures in both Second Standard Creek and the Madison River, maintaining and enhancing juvenile and adult fish habitat, and maintaining and enhancing aquatic macro-invertebrate habitat. Therefore, the proposed changes would likely have a positive impact on any wildlife in the area.

Wetlands - *Consult and assess whether the apparent wetland is a functional wetland (according to COE definitions), and whether the wetland resource would be impacted.*

Determination: No significant impact identified. According to a January 28, 2015, search of the USFWS Wetlands Mapper, there are small wetland areas near the historically irrigated POU and along the affected reach of Second Standard Creek. As the proposal is to leave water instream that had been historically diverted from the source and consumed by crops, any wetland effects will likely be positive.

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

Determination: Not applicable. No ponds are involved in this project.

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.*

Determination: No significant impact identified. Leaving additional water instream for the benefit of fisheries should not affect soil characteristic significantly and may help soil quality, stability, and moisture content by providing additional water. This additional water could help establish riparian plants, which may improve soil stability and moisture content. A January 28, 2015, search of the NRCS WSS site did not identify any saline seeps in the area.

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.*

Determination: No significant impact identified. Leaving additional water instream for the benefit of fisheries may improve vegetative characteristics. Letters of support from FWP and Urbani Fisheries, LLC, indicate that this change may improve riparian habitat.

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

Determination: No impact identified. This project will not impact air quality.

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: Not applicable. The project is not located on State or Federal Lands. Furthermore, the Applicant made no mention of significant historical or archeological sites on the property.

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 significant impact identified. No other demands on environmental resources of land, water, and energy are anticipated.

HUMAN ENVIRONMENT

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

Determination: No significant impact identified. The Applicant's goals are to improve the fisheries in Second Standard Creek and the Madison River. The Madison is recognized by DFWP as a blue ribbon trout stream and one of Montana's "premier wild trout fisheries." This proposal is consistent with those goals.

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: No impact identified. The upper stretches of Second Standard Creek flow through U.S. Forest Service land. This proposal would not affect access to or the quality of recreational opportunities on Forest Service land. As this project is to leave water instream for the benefit of fisheries, it may improve the quality of recreational opportunities below the historical POD.

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

Determination: No impact identified. Leaving water instream for the benefit of Second Standard Creek fisheries should not have any 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: No impact identified. The project does not impact government regulations on private property rights.

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 impacts identified.
- (b) Local and state tax base and tax revenues? No significant impacts identified.
- (c) Existing land uses? No significant impacts identified.
- (d) Quantity and distribution of employment? No impacts identified.
- (e) Distribution and density of population and housing? No impacts identified.
- (f) Demands for government services? No impacts identified.
- (g) Industrial and commercial activity? No impacts identified.
- (h) Utilities? No impacts identified.
- (i) Transportation? No impacts identified.
- (j) Safety? No impacts identified.
- (k) Other appropriate social and economic circumstances? No impacts identified.

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:* The Applicant has proposed to monitor stream flow levels at both an upstream and a downstream site

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:* If this change is not authorized, Second Standard Creek will continue to provide the same spawning habitat and fishing opportunities that it currently does. As there are few consumptive rights diverting from Second Standard Creek and, according to the Applicant's calculations, the flow diverted under these rights may represent up to 23 percent of the entire flow of Second Standard Creek during the irrigation season, this temporary change to instream flow may be the only option for improving the fishery.

PART III. Conclusion

1. ***Preferred Alternative:*** The proposed alternative is to grant the change application, if the Applicant can prove that the criteria in §85-2-402, MCA, are met.
2. ***Comments and Responses:*** None at this time.
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: The EA is the appropriate level of analysis because the proposed project is to change two water rights to instream flow for the benefit of fisheries. No significant adverse effects are anticipated. None of the identified impacts for any of the alternatives is significant as defined in ARM 36.2.524.

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

Name: Brent Zundel
Title: Water Resource Specialist
Date: January 28, 2015