

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:

APPLICANTS:

DJR HOLDINGS LLC
203 N EWING ST
HELENA, MT 59601

7 BAR LLC
76 BARCLAY DR
BOZEMAN, MT 59715

CONSULTANT:

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

2. Type of action: APPLICATION TO CHANGE A WATER RIGHT NO. 41H 30070678. The Applicant proposes to permanently change the purpose, point of diversion (POD), and place of use (POU) of two irrigation rights and four stock rights to marketing for mitigation or aquifer recharge along reaches of the Gallatin and Missouri Rivers.
3. Water source name: LOGAN SPRINGS NOS. 1 & 2, tributaries to the Gallatin River
4. Location affected by project:
- a. Section 1, T01 N, R02 E, Gallatin County
 - b. Section 6, T01 N, R03 E, Gallatin County
 - c. Section 31, T02 N, R03 E, Gallatin County
 - d. Section 36, T02 N, R02 E, Gallatin County

The project area is located at the corner of four different sections, each in a different township and range. The POD is located in Section 31, and the historically irrigated acreage is located in Section 1. Irrigation likely affected unnamed tributaries in Sections 36 and 6 to some extent. After water flows out of the unnamed tributaries in Section 31, it will be allowed to flow in the Gallatin River, then into the Missouri River until Canyon Ferry Reservoir.

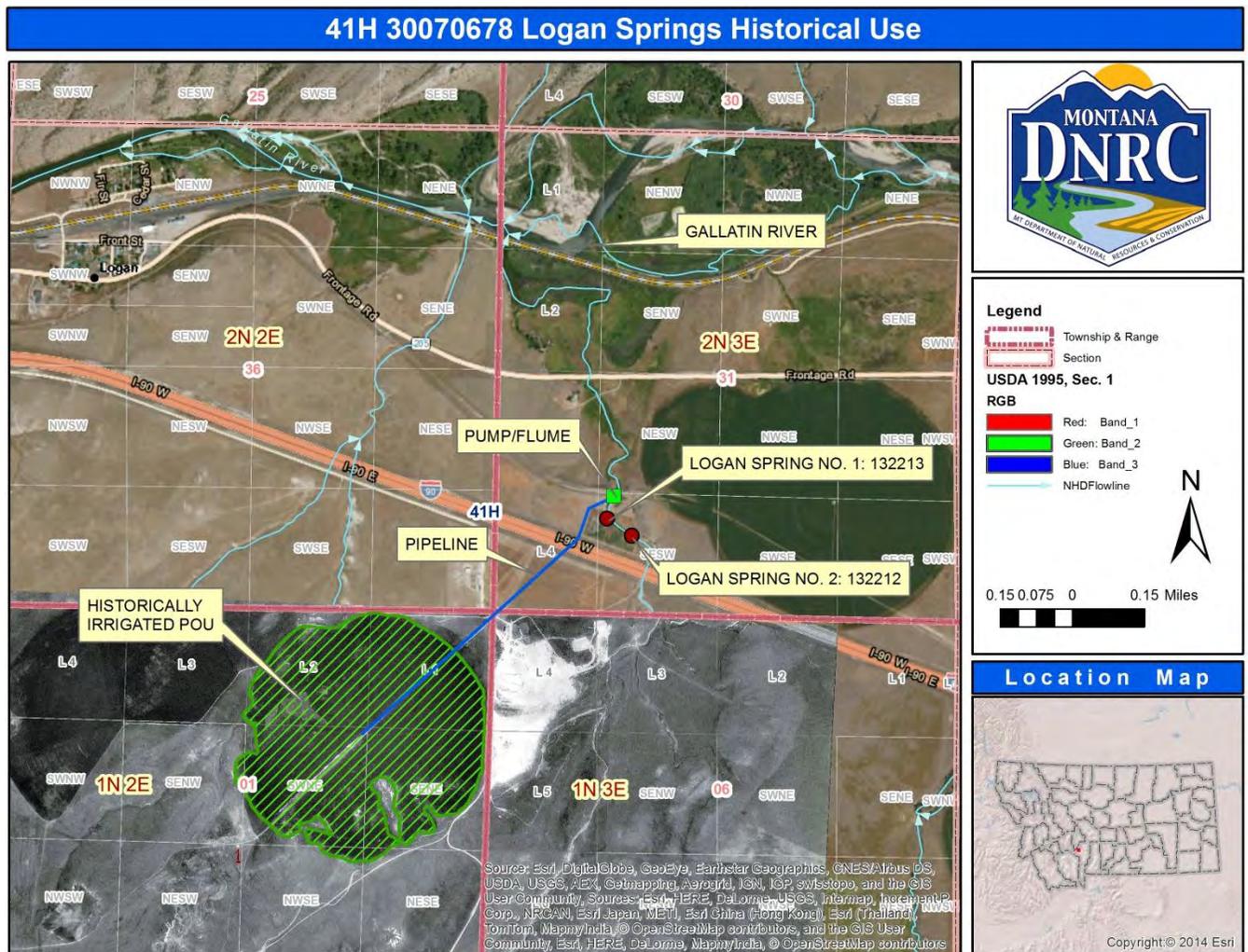


Figure 1: Map of location affected by project. Sections 1 and 6 are overlain by a 1995 aerial image from the USDA.

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

The Applicant proposes to permanently change the purpose, POD, and POU of irrigation water rights 41H 132212-00 and 132213-00 and stock water rights 41H 132201-00, 132202-00, 30069129 and 30069130. The purpose would be changed to marketing for mitigation or aquifer recharge. The rights will be sold or leased to mitigate future consumptive uses along a reach that includes the Gallatin and Missouri Rivers. This reach would extend from the confluence of an unnamed tributary and the Gallatin River in the SWNWNW of Section 31, T02 N, R03 E along the Gallatin River to its confluence with the Missouri River and then along a reach of the Missouri river until the upper edge of Canyon Ferry Reservoir in Section 18, T07 N, R02 E, Broadwater County. Until they are successfully sold or leased, these rights will be allowed to flow instream.

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 February 13, 2015, the Gallatin River is listed as chronically dewatered by DFWP along the reach from Shed’s Bridge to its mouth. The DEQ CWAIC website indicates that this dewatering is due primarily to irrigated crop production. This change will not significantly impact the dewatered condition. Until the rights are successfully sold or leased, water that was historically diverted will be allowed to flow instream, so more water will be available. After the rights are successfully sold or leased, these rights will be used to mitigate future depletions, so the current change will not worsen the dewatered condition.

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 February 13, 2015, this stretch of the Gallatin River is listed as not supporting primary contact recreation or aquatic life due to low flow alterations from irrigated crop production. This change will not have a significant impact on the water quality because additional water will be left instream in order to mitigate future depletions.

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 Department's records indicate that the rights being changed are from groundwater, but a 1981 field investigation by then-Bozeman manager Scott Compton indicated that these rights flow from the springs into a defined creek channel and are then diverted by means of a pump and pipeline system, so they may more accurately be characterized as surface water rights. Changing these rights to marketing for mitigation and allowing them to flow instream will not significantly impact groundwater quality or supply. This change will alter return flow timing. However, the depth to the water table near the project site is an average of 97 feet below ground surface according to three well logs, so this timing difference should 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 impact identified. Pursuant to §85-2-402(2)(b)(iii), MCA, the proposed change is for marketing for mitigation, so no diversion works are required. Water will be left instream to mitigate future depletions. This change will not cause channel impacts or flow modifications, except for leaving additional water instream.

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. The project area is located at the corner of four different sections, each in a different township and range. The Montana Heritage Program's website was queried on February 13, 2015, for each of the distinct townships and ranges. Results are summarized below.

Animal Species of Concern: Sprague's Pipit, Golden Eagle, Great Blue Heron, Burrowing Owl, Ferruginous Hawk, Veery Thrush, Bobolink Blackbird, Pinyon Jay, Long-billed Curlew, Sage Thrasher, Brewer's Sparrow, Greater Short-horned Lizard, Hoary Bat, Little Brown Myotis, Peregrine Falcon, Loggerhead Shrike, Clark's Nutcracker, Plains Spadefoot, Subterranean Amphipod, Westslope Cutthroat Trout. Twenty (20) total species.

Animal Potential Species of Concern: None.

Animal Special Status Species: Bald Eagle. One (1) total species.

The MTNHP website did not identify any plant Species of Concern, plant Potential Species of Concern, or plant Special Status Species.

The proposed project is to leave water that was historically diverted instream in order to mitigate future depletions, so the proposed changes would not have a significant impact on any wildlife in the area and may in fact benefit the ecosystem.

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: Not applicable. According to a February 13, 2015, search of the USFWS Wetlands Mapper, there are no wetland areas near the project area.

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 historically diverted water instream for the mitigating future depletions should not affect soil characteristic significantly and may help soil quality, stability, and moisture content along the unnamed tributaries to the Gallatin River by providing additional water. This additional water could help maintain riparian plants, which may improve soil stability and moisture content. A February 13, 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 historically diverted water instream to mitigate future depletions may improve vegetative characteristics.

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 sell or lease their existing water rights in order to mitigate future depletions to the Gallatin or Missouri Rivers. Mitigation of surface water depletions is a recognized beneficial use of water in the State of Montana. These rights are located within a basin closed to new appropriations of water, so new uses of water will need to mitigate any depletions to surface water. 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. This change will not affect access to recreational activities or the quality of recreational and wilderness activities.

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

Determination: No impact identified. Leaving historically diverted water instream to mitigate future consumptive uses will not impact 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 significant 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:* A measurement condition is proposed to ensure that water sold or leased for the purpose of mitigation remains instream in the unnamed tributary and is allowed to flow to the Gallatin River.

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:* No reasonable alternatives have been identified. The watershed basins through which the Gallatin River and the Missouri River upstream of Canyon Ferry flow are closed to new appropriations of water. The only way to allow new uses is to mitigate the consumed volume.

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 water rights to mitigate future surface water depletions. None of the identified impacts for any of the alternatives is significant as defined in ARM 36.2.524. No significant adverse effects are anticipated.

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

Name: Brent Zundel
Title: Water Resource Specialist
Date: February 13, 2015