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:

Howard & Sandra Hickingbotham	Karen Halcomb Mary Ruth Havican	Bruce Barrett & Adair Kanter
8105 Tortuga Ranch Rd	265 Blue Heron Ln	330 Blue Heron Ln
Missoula, MT 59801	Missoula, MT 59801	Missoula, MT 59801

2. Type of action: APPLICATION TO CHANGE A WATER RIGHT 76H – 30066973 – TEMPORARY IN-STREAM

3. Water source name: O'BRIEN CREEK

4. Location affected by project: THE PROTECTED REACH BEGINS AT THE UPSTREAM MOST POINT OF DIVERSION, A HEADGATE LOCATED IN THE NWNWNE OF SECTION 34, T13N, R20W, MISSOULA COUNTY AND CONTINUES DOWNSTREAM APPROXIMATELY 0.4 MILES TO THE CONFLUENCE OF O'BRIEN CREEK AND THE BITTERROOT RIVER.

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

APPLICANTS SEEK TO CHANGE THE PURPOSE OF STATEMENT OF CLAIM NOS. 76H 30043235, 76H 30043236 AND 76H 30043240 FROM IRRIGATION TO INSTREAM FLOW FOR THE BENEFIT OF THE FISHERIES RESOURCE IN O'BRIEN CREEK, A TRIBUTARY TO THE BITTERROOT RIVER. THE APPLICANTS PROPOSE TO PROTECT 534.86 GPM (1.19 CFS) AT THE HISTORIC POINT OF DIVERSION BETWEEN MAY 1 AND SEPTEMBER 24. THE ENTIRE PLACE OF USE, CONSISTING OF 33.9 IRRIGATED ACRES COMBINED FOR THE THREE SUBJECT RIGHTS WILL NO LONGER BE IRRIGATED USING O'BRIEN CREEK. THE PROTECTED REACH BEGINS AT THE UPSTREAM MOST POINT OF DIVERSION, A HEADGATE LOCATED IN THE NWNWNE OF SECTION 34, AND CONTINUES DOWNSTREAM APPROXIMATELY 0.4 MILES TO THE CONFLUENCE OF O'BRIEN CREEK AND THE BITTERROOT RIVER.

THE DNRC SHALL ISSUE A CHANGE AUTHORIZATION IF AN APPLICANT PROVES THE CRITERIA IN 85-2-402 MCA ARE MET.

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

STATE HISTORICAL PRESERVATION OFFICE
MONTANA NATURAL HERITAGE PROGRAM
MONTANA ENVIRONET WEBSITE FOR WATER QUALITY
MONTANA FISHERIES INFORMATION SYSTEM WEBSITE

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.*

1. *Determination*: NO SIGNIFICANT IMPACTS

O'BRIEN CREEK IS IDENTIFIED BY MONTANA DEPARTMENT OF FISH, WILDLIFE AND PARKS AS CHRONICALLY DEWATERED IN THE LOWER 1.5 MILES OF THE STREAM BEFORE IT'S CONFLUENCE WITH THE BITTERROOT RIVER. THE PROPOSED PROTECTED REACH INCLUDES A PORTION OF THE LOWER 1.5 MILES THAT IS DEWATERED. O'BRIEN CREEK IS A COLD WATER TRIBUTARY OF THE BITTERROOT RIVER THAT SUPPORTS POPULATIONS OF WESTSLOPE CUTTHROAT TROUT AND BULL TROUT. THE PROPOSED PROJECT TO ENHANCE IN-STREAM FLOWS WOULD NOT WORSEN THE CURRENT 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 IMPACTS.

O'BRIEN CREEK IS NOT LISTED AS WATER QUALITY IMPAIRED OR THREATENED BY DEQ. THE PROPOSED PROJECT TO ENHANCE IN-STREAM FLOWS WOULD NOT WORSEN THE CURRENT CONDITION.

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 IMPACTS.

GROUNDWATER WOULD NOT BE IMPACTED BY THE PROPOSED PROJECT.

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 IMPACTS.

THE PROPOSED PROJECT DOES NOT REQUIRE A DIVERSION. THE EXISTING DIVERSION WILL NOT BE USED.

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 IMPACTS.

BY REQUEST, THE MONTANA NATURAL HERITAGE PROGRAM CONDUCTED A RECORD SEARCH FOR THE PROJECT AREA. THIS SEARCH SHOWED BULL TROUT (LISTED AS THREATENED UNDER ESA), AND WESTSLOPE CUTTHROAT TROUT (SPECIES OF SPECIAL CONCERN) IN THE BITTERROOT RIVER AND TRIBUTARIES IN THE VICINITY OF THE PROJECT. THE PROPOSED PROJECT IS TO ENHANCE FLOWS IN O'BRIEN CREEK, WHICH IS A TRIBUTARY OF THE BITTERROOT RIVER. THE SEARCH ALSO SHOWED SEVERAL OTHER PLANT AND ANIMAL SPECIES IN THE VICINITY, HOWEVER NONE SPECIFICALLY IDENTIFIED IN THE PROJECT AREA. WITH THE POSSIBLE EXCEPTION OF INCREASED FLOW IN O'BRIEN CREEK FOR FISHERIES, NO IMPACTS TO ANY OF THESE SPECIES ARE ANTICIPATED AS A RESULT OF THIS PROPOSED PROJECT.

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 IMPACTS.

NO WETLAND RESOURCE WILL BE AFFECTED BY THE PROPOSED PROJECT

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

Determination: NO IMPACTS.

NO POND WILL BE AFFECTED BY THE PROPOSED 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 IMPACTS.

NO IMPACTS TO SOILS ARE EXPECTED TO RESULT FROM THE PROPOSED PROJECT.

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 IMPACTS.

EXISTING VEGETATIVE COVER CONSISTS OF THAT TYPICAL TO A RURAL RESIDENTIAL DEVELOPMENT, WITH LAWNS AND PLANTED BRUSHY PLANTS.

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

Determination: NO IMPACTS.

THE PROPOSED PROJECT IS NOT EXPECTED TO AFFECT 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: NO SIGNIFICANT IMPACTS.

THE PROPOSED PROJECT IS TO CHANGE AN IRRIGATION WATER RIGHT THAT HAD BEEN DIVERTED FROM O'BRIEN CREEK VIA A HEADGATE AND DITCH TO IN-STREAM FLOWS FOR THE FISHERY RESOURCE. NO GROUND DISTURBANCE WILL OCCUR AS A RESULT OF THIS PROJECT. ALL GROUND DISTURBANCES HAS PREVIOUSLY OCCURRED FROM RESIDENTIAL DEVELOPMENT.

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 IMPACTS, NOT ALREADY DISCUSSED.

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 IMPACTS. THE PROPOSED PROJECT IS NOT INCONSISTENT WITH LOCAL ENVIRONMENTAL PLANS AND 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 IMPACTS.

THE PROPOSED PROJECT WILL NOT IMPAIR ACCESS TO OR THE QUALITY OF RECREATIONAL AND WILDERNESS ACTIVITIES

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

Determination: NO IMPACTS

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:

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? NONE

(*b) Local and state tax base and tax revenues?* NONE

(c) Existing land uses? NONE

(*d) Quantity and distribution of employment? NONE*

(e) Distribution and density of population and housing? NONE

(f) Demands for government services? NONE

(g) Industrial and commercial activity? NONE

(h) Utilities? NONE

(i) Transportation? NONE

(j) Safety? NONE

(k) Other appropriate social and economic circumstances? NONE

2. *Secondary and cumulative impacts on the physical environment and human population:*

Secondary Impacts ___NONE IDENTIFIED IN THIS EA

Cumulative Impacts ___NONE IDENTIFIED IN THIS EA

3. ***Describe any mitigation/stipulation measures:*** NONE IDENTIFIED

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:*** THERE ARE NO OTHER REASONABLE ALTERNATIVES TO THE PROPOSED PROJECT. THE NO ACTION ALTERNATIVE WOULD DISALLOW THE APPLICANT FROM TEMPORARILY CHANGING THE PURPOSE OF THE REFERENCED WATER RIGHTS FROM IRRIGATION TO IN-STREAM FLOW FOR FISHERIES.

5.

PART III. Conclusion

1. ***Preferred Alternative*** NOT APPLICABLE.

2 ***Comments and Responses***

3. ***Finding:***

Based on the significance criteria evaluated in this EA, is an EIS required?

*Yes___ No_**X**__*

If an EIS is not required, explain why the EA is the appropriate level of analysis for this proposed action: AN EA IS THE APPROPRIATE LEVEL OF ANALYSIS FOR THIS PROPOSED ACTION BECAUSE NO SIGNIFICANT IMPACTS HAVE BEEN IDENTIFIED AS A RESULT OF THE PROPOSED ACTION.

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

Name: K Schubert
Title: Water Resource Specialist
Date: October 17, 2014