EA Form R 1/2007

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: Shining Mountain Ranch
299 South Main St., Suite 2450
Salt Lake City, UT 84111

2. Type of action: Application to Change a Water Right No. 76H 30031113

3. Water source name: Unnamed tributary to Cameron Creek

4. Location affected by project: SESW Section 15, T2N, R19W, Ravalli County

5. Narrative summary of the proposed project, purpose, action to be taken, and benefits:
The Shining Mountain Ranch submitted an application to change a water right to change the point of diversion, place of use and source of water for a previously permitted recreation pond. The previously permitted pond was to be constructed on the ranch property adjacent to Doran Creek in the NWSESE of Section 16, T02N, R19W, Ravalli County. The recreation pond was to be supplied with water diverted from Doran Creek using a headgate and ditch at a rate of 4.50 gpm. The applicant did not construct this pond, and is now proposing to construct it in a different location. The new location will be on an unnamed tributary of Cameron Creek. The new pond will be the same size and depth as the previously permitted pond, with a capacity of 4 acre-feet. The pond will be operated as a flow through pond where inflows equal outflows. Montana Codes Annotated 85-2-402 allows for changing unperfected water right permits and for changing the source of a water right. 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)

Montana Historical Society	Cultural resource file search
Montana Natural Heritage Program	Species of concern
Bitterroot Valley Soil Survey	Soil data
MT DFWP 2005 Impaired Stream List	Dewatering concerns
DEQ 303(d) List	Water quality impairments

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.*

DFWP does not identify the unnamed tributary or Cameron Creek as either periodically or chronically dewatered. The proposed use of water for a recreation pond will result in approximately 3.24 acre-feet of water consumed to evaporative loses. There will be no other consumptive use of water associated with the proposed change in water use. The loss of 3.24 acre-feet of water to the drainage over a period of one year will not cause dewatering in Cameron Creek or its downstream tributaries.

Determination: No impact.

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.*

The MT DEQ does not list the unnamed tributary or Cameron Creek as water quality impaired or threatened. The proposed project may slightly impair water quality in the unnamed tributary by increased sedimentation during construction and through discharge of warmed surface water once the pond is constructed. It is not known if cold water aquatic insect or fish species are present in the unnamed tributary that could be impacted.

Determination: No significant impact.

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.*

Not applicable. The project does not involve groundwater.

Determination:

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.*

The applicant proposes to construct an earth dam approximately 8 feet high across the unnamed tributary. Fill from excavating the pond will be used to construct the dam. A slide gate control structure will be used to control the elevation of the pond. The primary outlet will be a corrugated metal pipe running through the dam that is connected to the slide gate. The applicant will also construct a rock lined emergency bypass spillway. This type of pond construction is typical, and the applicant has several other similarly constructed ponds on their property that have functioned properly without failure.

The proposed new pond location is on a spring fed draw tributary to Cameron Creek. The pond will be constructed near the top of the draw where water begins flowing in an approximately 3 foot wide boggy channel. Photographs taken by the applicant show the water flowing through primarily pasture grass where the pond will be built. No riparian shrubs or trees are present in the photograph. The stream channel at the proposed pond site is too small and shallow to support a cold water fishery, and just upstream from the pond site no flowing water is visible on aerial photographs. The construction of the proposed pond at this site will not create a barrier to fish migration. Flows in the unnamed tributary will be modified during the initial fill of the pond. Once the pond is full outflows will equal inflows and the flow modification will cease. Riparian vegetation is limited to hydrophytic grass and forbs, and these will likely become reestablished along the pond edges after the pond is constructed. The construction of the pond will not impact other dams or impact well construction.

Determination: No significant impact.

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."*

The Montana Natural Heritage Program was contacted to determine if there are any threatened or endangered fish, wildlife, plants or aquatic species or any "species of special concern", that could be impacted by the proposed project.

The following animal species within Township 02 North, Range 19 West, Ravalli County; Westslope Cutthroat Trout, Western Toad, Flammulated Owl, Canada Lynx, Wolverine, Fisher, and Gray Wolf. No sensitive plant species were identified.

The proposed pond project will result in the disturbance of approximately 1 acre of land. The disturbance will consist of the excavated pit and construction of an earthen dam. Upon completion of the project the one acre site will be occupied by a pond. No other construction activity will occur if DNRC authorized the change in water use. The construction of the pond will not result in a reduction of habitat for the above listed species. Cutthroat trout are currently not found in the source of water to be used to fill the pond, and once the pond is full there will not be a reduction in water flowing from the unnamed tributary to Cameron Creek. The project should not impact Cutthroat Trout.

Determination: No impact.

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

The proposed pond site is located in a small draw on the applicant's property with a small channel of flowing water. The channel is approximately 3 feet wide and less than one foot deep. Flows measured in the channel by the applicant were 23 gallons per minute in the month of

November. Photographs submitted by the applicant show dry grasslands with the narrow channel. The channel is lined by hydrophytic grasses and forbs. Less than one acre of wetland will be disturbed during construction. Upon completion of the project the same hydrophytic grasses and forbs will become reestablished. The project will not result in a net loss of wetlands.

Determination: No significant impact.

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

The construction of the pond will not limit existing wildlife on the applicant's property from accesses the unnamed tributary or the pond for a source of water. The pond site prior to construction does not provided habitat for waterfowl. Upon completion of the pond waterfowl will be able to access the pond and could feasibly use the pond for resting and feeding. The proposed water use is largely non-consumptive and will not result in flow modifications in the unnamed tributary or its downstream tributary, Cameron Creek that may impact the fisheries resource.

Determination: No impact.

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.*

The soils at the proposed pond site are not heavy in salts and are not susceptible to saline seep. The applicant will not be applying water to soils as a result of the proposed pond construction. The earthen dam will be constructed per engineering standards for small earthen dam construction. The construction of the pond will not result in an alteration of soil stability.

Determination: No significant impact.

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.*

Existing vegetative cover at the proposed pond site will be removed during excavation of the 1 acre pond. Upon completion of the pond the site will be reseeded and native hydrophytic plants will be allowed to become reestablished. No sensitive plant species were identified as occurring at or near the project site. Noxious weeds can become established in areas disturbed during construction activities. The property is privately owned and the landowner is responsible for controlling noxious weeds on their property.

Determination: No significant impact.

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

No source of air pollution was identified.

Determination: No impact.

HISTORICAL AND ARCHEOLOGICAL SITES - *Assess whether there will be degradation of unique archeological or historical sites in the vicinity of the proposed project.*

The Montana Historical Society indicates no historical or archaeological sites are inventoried in the area. A cultural resource inventory was not recommended by MHS, however, since the property is privately owned, it is up to the landowner to report any cultural resources encountered during construction.

Determination: No impact.

DEMANDS ON ENVIRONMENTAL RESOURCES OF LAND, WATER, AND ENERGY - *Assess any other impacts on environmental resources of land, water and energy not already addressed.*

All impacts to land, water, and energy have been identified and no further impacts are anticipated.

Determination: No impact.

HUMAN ENVIRONMENT

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

The project is located in an area with no locally adopted environmental plans.

Determination: No impact.

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.*

The proposed project will not inhibit, alter or impair access to the present recreational opportunities in the area. The project is not expected to create any significant pollution, noise, or traffic congestion in the area that may alter the quality of recreational opportunities in the valley.

Determination: No impact.

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

The project does not pose a significant risk to the human health

Determination: No impact.

PRIVATE PROPERTY - *Assess whether there are any government regulatory impacts on private property rights.*
*Yes___ No_**XX**__ If yes, analyze any alternatives considered that could reduce, minimize, or eliminate the regulation of private property rights.*

Determination: No impact.

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 identified.

(*b) Local and state tax base and tax revenues?* None identified.

(c) Existing land uses? None identified.

(*d) Quantity and distribution of employment?* None identified.

(e) Distribution and density of population and housing? None identified.

(f) Demands for government services? None identified.

(g) Industrial and commercial activity? None identified.

(h) Utilities? None identified.

(i) Transportation? None identified.

(j) Safety? None identified.

(k) Other appropriate social and economic circumstances? None identified.

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

Secondary Impacts None identified.

Cumulative Impacts None identified.

3. *Describe any mitigation/stipulation measures:*

No reasonable alternatives were identified in the EA.

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:*

PART III. Conclusion

1. Preferred Alternative None identified.

2 Comments and Responses

3. *Finding:*
*Yes___ No_**XX**__ 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 EA IS THE APPROPRIATE LEVEL OF ANALYSIS FOR THE PROPOSED ACTION BECAUSE NO SIGNIFICANT IMPACTS WERE IDENTIFIED.

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

Name: Jim Nave
Title: Water Resource Specialist
Date: May 12, 2008