

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: ASWS, LLC
PO Box 1166
Williston, ND 58802-1166
2. Type of action: Surface Water Application for Beneficial Water Use Permit No. 40S 30164889
3. Water source name: Missouri River
4. Location affected by project: NWSNW, Section 31, T27N, R59E, Roosevelt County
NE, Section 31, T28N, R59E, Roosevelt County
5. Narrative summary of the proposed project, purpose, action to be taken, and benefits: The DNRC shall issue a water use permit if an applicant proves the criteria in 85-2-311 MCA are met.

The Applicant proposes to divert water from the Missouri River, by means of a pump, from January 1 through December 31 at 12 CFS up to 860.17 AF annually, from a point in Gov't Lot 3, NWSNW, Section 31, T27N, R59E, for water marketing use from January 1 through December 31. The place of use is the point of sale, which will be from the storage ponds located in the NESWNE, Section 31, T28N, R59E, Roosevelt County. The place of use consists of two reservoirs, one with a capacity of 24 AF located in the NESWNE, Section 31, T28N, R59E, and the other 45 AF located in the NWSENE, Section 31, T28N, R59E. The Applicant proposes to sell water to a purchaser who has signed a firm contract. Water will be used for oil field development, with the general service area covering portions of Roosevelt County.

6. Agency websites reviewed during preparation of the Environmental Assessment:
(include agencies with overlapping jurisdiction)
 - Montana Department of Natural Resources and Conservation (DNRC)
 - US Fish & Wildlife Service
 - Montana Natural Heritage Program
 - Montana Department of Fish, Wildlife, & Parks
 - Montana Department of Environmental Quality
 - USDA Web Soil Survey
 - National Wetlands Inventory

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.*

The reach of the Missouri River from Fort Peck Reservoir to the North Dakota/Montana state border is not identified as a chronically or periodically dewatered stream by the Department of Fish, Wildlife & Parks (FWP). Also, FWP holds an instream flow right on this section of the Missouri River for 5,178 CFS, effective year-round. Based on the flow requested and the FWP instream right, the proposed diversion is unlikely to alter the current hydrologic condition of the river, therefore no significant impacts to water quantity related to this application have been identified.

Determination: No significant 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 reach of the Missouri River where the proposed POD is located is listed on the 2020 Montana 303(d) list as fully supporting agricultural and drinking water uses, and not fully supporting aquatic life. It was not assessed for primary contact recreation. The cause of impairment for aquatic life is the Fort Peck Dam which alters the natural hydrologic regime of the river and thus impacts aquatic and riparian habitat. The proposed project will not have any significant effect on water quality.

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.*

The surface water appropriation should have no significant impact on ground water in the area.

Determination: No significant impact.

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 plans to divert water at a rate of 12 CFS and 860.17 AF from the Missouri River from a diversion point in Gov't Lot 3, NWSENW, Section 31, T27N, R59E, Roosevelt County using a screened river intake pump. The pump is powered by an 800 HP, Caterpillar C18 diesel

engine, which meets Tier 4 EPA standards. The Applicant stated the pumps will maintain the flow rate of 12 CFS, which is within the optimal performance range.

Water will be delivered approximately 7.33 miles to two ponds via a 12" SDR 26 buried PVC pipeline. Four booster pumps, located 1-2 miles apart, will be utilized to deliver the desired flow rate throughout the pipeline. During the construction of the proposed pipeline, which would take approximately a year, the Applicant plans to use the existing pipeline from Provisional Permit 40S 30048277. The Applicant stated that the existing pipeline may be used to supply water contracted to the proposed project as well as to the project approved with water right 40S 30048277 but will not go over the total flow rate and volume of 4.5 CFS and 522.1 AF permitted under 40S 30048277.

The POU consists of two, lined reservoirs, one with a capacity of 24 AF (2.25 surface acres) located in the NESWNE, Section 31, T28N, R59E, and the other 45 AF (3.96 surface acres) located in the NWSENE, Section 31, T28N, R59E. The parking and water extraction areas for both reservoirs are in NESWNE, Section 31, T28N, R59E. Both reservoirs are approximately 20' deep, and the outlets will be from the bottom to account for freezing conditions. Both ponds will be fenced for security, public safety and livestock protection. Other than evaporation from the storage ponds, there will be no conveyance losses. A designated area will allow clients to park pumps and install their intakes. Water will be trucked from the site by customers.

Because the project site already contains a pump and pipeline from an existing water marketing permit, the proposed use is not expected to further impact river conditions.

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 identified a list of 12 species of concern near the point of diversion, located in the NWSENW, Section 31, T27N, R59E and 3 species of concern near the storage ponds, located in the NE, Section 31, T28N, R59E. Of this list, the Pallid Sturgeon and Whooping Crane are listed as endangered by the United States Fish, and Wildlife Service (USFWS) and Bureau of Land Management (BLM) and the Piping Plover is listed as threatened.

Point of Diversion		
Species Group	Common Name	Scientific Name
Fish	Blue Sucker	Cycleptus elongatus
Fish	Iowa Darter	Etheostoma exile
Fish	Northern Redbelly Dace	Chrosomus eos
Fish	Pallid Sturgeon*	Scaphirhynchus albus
Fish	Sauger	Sander canadensis
Fish	Shortnose Gar	Lepisosteus platostomus

Fish	Sicklefin Chub	Macrhybopsis meeki
Fish	Sturgeon Chub	Macrhybopsis gelida
Vascular Plants	Nannyberry	Viburnum lentago
Birds	Least Tern	Sternula antillarum
Birds	Piping Plover**	Charadrius melodus
Birds	Whooping Crane*	Grus americana
Storage Pond		
Species Group	Common Name	Scientific Name
Birds	Whooping Crane*	Grus americana
Birds	Bobolink	Dolichonyx oryzivorus
Reptiles	Snapping Turtle	Chelydra serpentina

*Listed Endangered by the USFWS and BLM

**Listed Threatened by the USFWS and BLM

Pallid Sturgeon are found in the Missouri River and use large, turbid rivers over sand and gravel bottoms, usually in strong current. They use all channel types but primarily use straight reaches with islands. The pumps will use floating screens with small footprints and are not anticipated to have an effect on Pallid Sturgeons.

The Whooping Crane has been observed in the marsh habitat present at Medicine Lake National Wildlife Refuge and the Red Rock Lakes National Wildlife Refuge. Birds have been observed in other areas of the state, which include grain and stubble fields as well as wet meadows, wet prairie habitat, and freshwater marshes that are usually shallow and broad with safe roosting sites and nearby foraging opportunities. The pump site and storage pond location would not likely provide suitable habitat for Whooping Crane.

The Piping plover prefers unvegetated sand or pebble beaches on shorelines or islands in freshwater and saline wetlands. Open shorelines and sandbars of rivers and large reservoirs in the eastern and north-central portions of the state provide prime breeding habitat. The pump location selected for this diversion is also an existing water marketing diversion site, so it is not expected to cause additional ground disturbance.

The diversion point is adjacent to land used for agricultural purposes and has already experienced impact from human activity.

Determination: No significant 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.

According to the National Wetland Inventory website, there are two wetland types in the area of the project. They are either Riverine or Palustrine wetlands adjacent to the Missouri River. The pump site and distribution lines will be located next to an existing line, so the land has been previously disturbed and is also in an area with heavy agricultural activities.

Determination: No significant impact.

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

Determination: There are no ponds identified within the project area.

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 soil type at the pump site is “Riverwash”, which is not prime farmland, and is not evaluated for salinity, slope, and moisture content.

The soil type at the storage pond location is Zahill-Vida Loams, which is nonsaline to slightly saline (0.0 to 4.0 mmhos/cm), is well drained, is not prime farmland, and has a slope of 4 to 15 percent. The storage ponds will be lined to prevent seepage into underlying substrate.

It is not anticipated that there will be degradation to the soil nor development of a saline seep caused by development of this project.

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.

No vegetation was listed as endangered or threatened by the USFWS or BLM in the project area. Because the project site already has a pump and pipeline from an existing water marketing permit, the proposed use is not expected to further impact the existing vegetation. The control of noxious weeds is the responsibility of the landowner.

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.

The pumps are run by a Caterpillar C18 diesel engine, which meets Tier 4 EPA standards for air quality. Construction of the pipeline may cause a temporary increase in dust along the conveyance route. Occasional dusty conditions caused by heavy equipment traffic can be expected at the storage pond area.

Determination: No significant impact.

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, project not located on State or Federal Lands.

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 other potential impacts have been identified.

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 known local environmental plans or goals in this area.

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.*

This project will not affect the quality of recreational and wilderness activities.

Determination: No significant impact.

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

This project will not affect human health.

Determination: No significant 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:

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 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 significant impacts identified.

- (e) Distribution and density of population and housing? No significant impacts identified.
- (f) Demands for government services? No significant impacts identified.
- (g) Industrial and commercial activity? No significant impacts identified.
- (h) Utilities? No significant impacts identified.
- (i) Transportation? No significant impacts identified.
- (j) Safety? No significant impacts identified.
- (k) Other appropriate social and economic circumstances? No significant impacts identified.

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

Secondary Impacts No significant impacts identified.

Cumulative Impacts No significant impacts identified.

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 other viable alternative would be the no action alternative in which the Department would not authorize a water right permit for water marketing use. Under the no action alternative, the Applicant would not be able to divert Missouri River water for water marketing.

PART III. Conclusion

1. *Preferred Alternative:* Issue a water use permit if the applicant proves the criteria in §85-2-311, MCA are met

2 *Comments and Responses*

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 EIS is not required because the EA did not identify any significant impacts from the proposed project.

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

Name: Ashley Kemmis

Title: Water Resource Specialist

Date: July 25, 2025