

Montana Department of Natural Resources and Conservation
Water Resources Division
Water Rights Bureau

ENVIRONMENTAL ASSESSMENT
For Routine Actions with Limited Environmental Impact

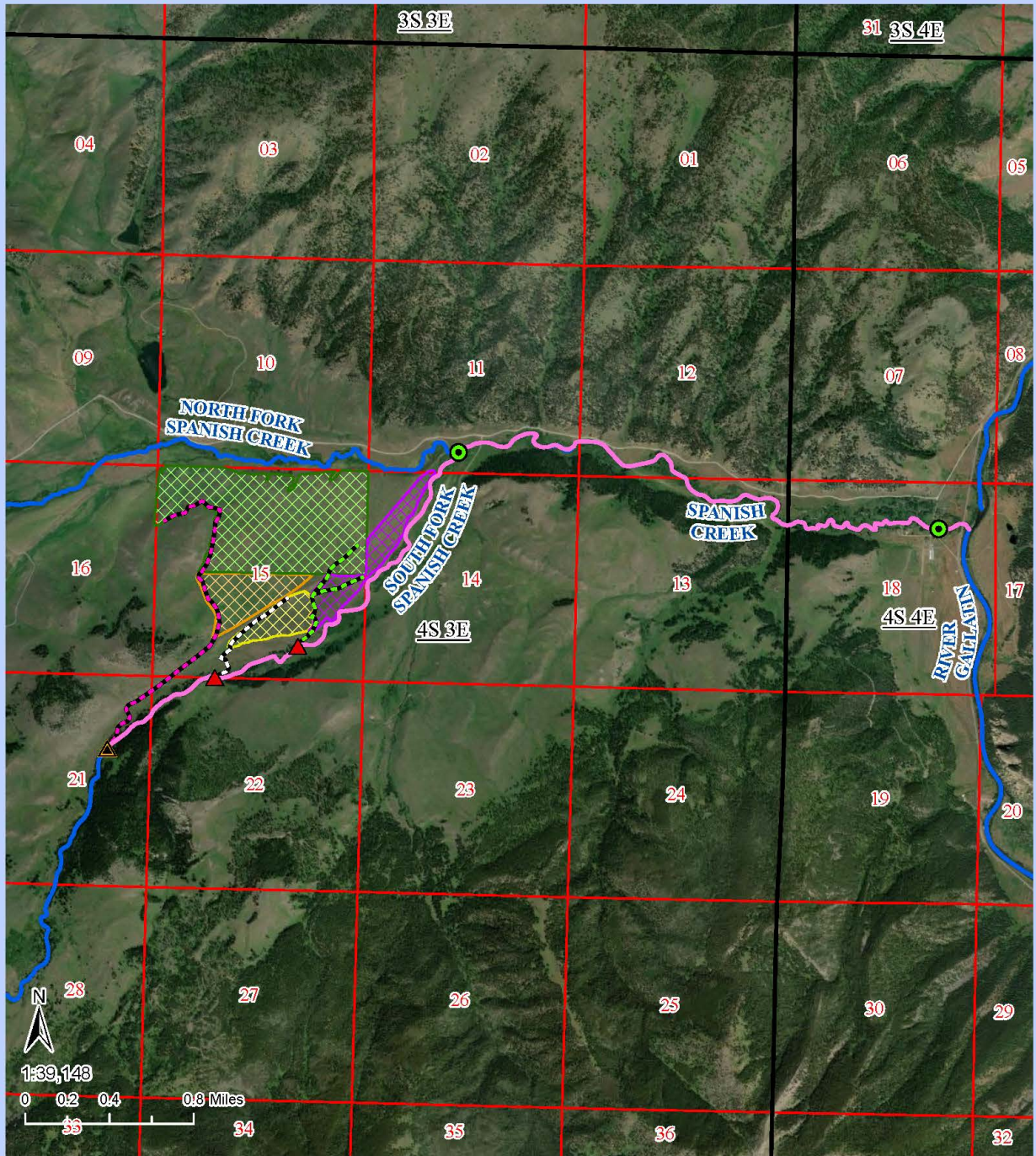
Part I. Proposed Action Description

1. Applicant/Contact name and address:

Turner Enterprises Inc
901 Technology Blvd
Bozeman, MT 59718

2. Type of action: Application to Change and Existing Irrigation Water Right No. 41H 30156209 by Turner Enterprises Inc.
3. Water source name: South Fork of Spanish Creek
4. Location affected by project: 6.33-mile reach of the South Fork of Spanish Creek and Spanish Creek beginning at the Fitzgerald Ditch headgate in the NWSENE of Section 21, T4S, R3E, and ends at the confluence of Spanish Creek and the Gallatin River NENE Section 18, T4S, R4E, all within Gallatin County. Seen on the map provided as Figure 1.
5. Narrative summary of the proposed project, purpose, action to be taken, and benefits: The Applicant proposed to change the point of diversion (POD), place of use (POU), and purpose of irrigation and stock Statement of Claim Nos. 41H 128147-00, 41H 128150-00, 41H 128151-00, 41H 128152-00, 41H 128153-00, 41H 128156-00, 41H 128157-00, 41H 132730-00, 41H 132744-00, 41H 132746-00, 41H 132755-00, 41H 132768-00, and 41H 132776-00 to instream fisheries use in the South Fork of Spanish Creek and Spanish Creek. During the irrigation season (April 15 to October 1) 32.72 CFS and 1059.62 AF will be protected at the historical POD and 4.51 CFS and 668.62 AF will be protected below the historical POD within the protected reach. The DNRC shall issue a Change Authorization if an Applicant proves the criteria in 85-2-402 MCA are met.

41H 30156209 Turner Enterprises Historical & Proposed Use



Historical Use

- Historical PODs - Headgates
- Finnegan Ditch
- Fitzgerald Ditch
- Vogal Ditch

Historical POUs

- 41H 128147-00 & 41H 128158-00
- 41H 128150-00 & 41H 128157-00
- 41H 128151-00
- 41H 128152-00 & 41H 128153-00

Proposed Use

- Historical POD & Proposed Instream Measurement Point
- Proposed Measurement Point
- Protected Reach



Aerial Imagery: World Imagery: Maxar
Map Created: 3/29/2024

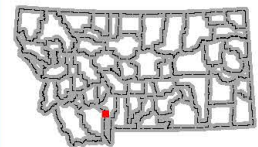


Figure 1. Change Application 41H 30156209 Historical and Proposed use map

6. Agencies consulted during preparation of the Environmental Assessment:
- Montana Department of Fish, Wildlife & Parks (FWP) – Dewatered Streams Page 3 of 4 https://gis-mtfdwp.opendata.arcgis.com/datasets/e0849312c41b415992a075f8696164c8_0/explore?location=46.751212%2C-110.425168%2C7.85
 - Montana Department of Environmental Quality (DEQ) – Clean Water Act Information Center (CWAIC) <https://clean-water-act-information-center-mtdeq.hub.arcgis.com/>
 - Montana National Heritage Program (MTNHP) – Natural Heritage Map Viewer <https://mtnhp.org/mapviewer/?t=7>
 - U.S. Fish & Wildlife Service (USFWS) – National Wetlands Inventory Wetlands Mapper <https://www.fws.gov/program/national-wetlands-inventory/wetlands-mapper>
 - Natural Resource Conservation Service (NRCS) – Web Soil Survey (WSS) <https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx>

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.

An April 17, 2024, search of FWP Dewatered Streams data shows the stretch of the South Fork of Spanish Creek and Spanish Creek, appurtenant to the project, is not listed as a dewatered stream. The water historically diverted for irrigation and stock use from the South Fork of Spanish Creek will remain in the creek for instream fisheries use, so the water quantity in the source will increase and dewatering will not be exacerbated.

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.

An April 17, 2024, search of the DEQ Impaired Water 2020 data on the CWAIC identified the South Fork of Spanish Creek and Spanish Creek as not assessed for impairments. The proposed project involves changing the purpose from irrigation and stock use to instream fisheries use. The proposed change is likely to increase the water quality of the South Fork of Spanish Creek and Spanish Creek.

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 proposed use does not involve a groundwater component.

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.

The proposed project involves the historical headgates being closed and South Fork of Spanish Creek water will no longer be diverted into the Finnegan, Fitzgerald, or Vogel Ditches. The project's proposed POD will not involve any disturbances to the riparian area and is expected to positively impact the flow barrier and flow regimes.

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.

An April 17, 2024, search of the Montana Heritage Program's website for Sections 11 – 15, 12, and 22, T4S, R3E and Section 18, T4S R4E, returned the following results:

- 14 Animal Species of Concern: Bison, American Goshawk, Bobolink, Brewer's Sparrow, Brown Creeper, Cassin's Finch, Clark's Nutcracker, Evening Grosbeak, Ferruginous Hawk, Golden Eagle, Great Blue Heron, Green-tailed Towhee, Harlequin Duck, and Veery
- 3 Animal Potential Species of Concern: Uinta Ground Squirrel, Broad-tailed Hummingbird, and Rufous Hummingbird
- 1 Animal Special Status Species: Bald Eagle
- 0 Plant Species of Concern
- 0 Plant Potential Species of Concern
- 0 Plant Special Status Species

The proposed project involves the historical headgates being closed and South Fork of Spanish Creek water will no longer be diverted into the Finnegan, Fitzgerald, or Vogel Ditches. The project's proposed POD will not create any barriers to the movement or migration of wildlife or fish.

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 detected.

An April 17, 2024, search on the National Wetland Inventory Mapper shows forested/shrub and freshwater emergent wetlands. These wetlands have surface water present for brief periods of the growing season and the water table usually lies well below the ground surface. It appears that the wetlands, seen in Figure 2 correlate with the South Fork of Spanish Creek and Spanish Creek, which is the proposed POU. The proposed project will allow the South Fork of Spanish Creek water to continue downstream to the confluence of Spanish Creek and the Gallatin River. The proposed change is not expected to significantly impact the wetlands in the proposed POU.

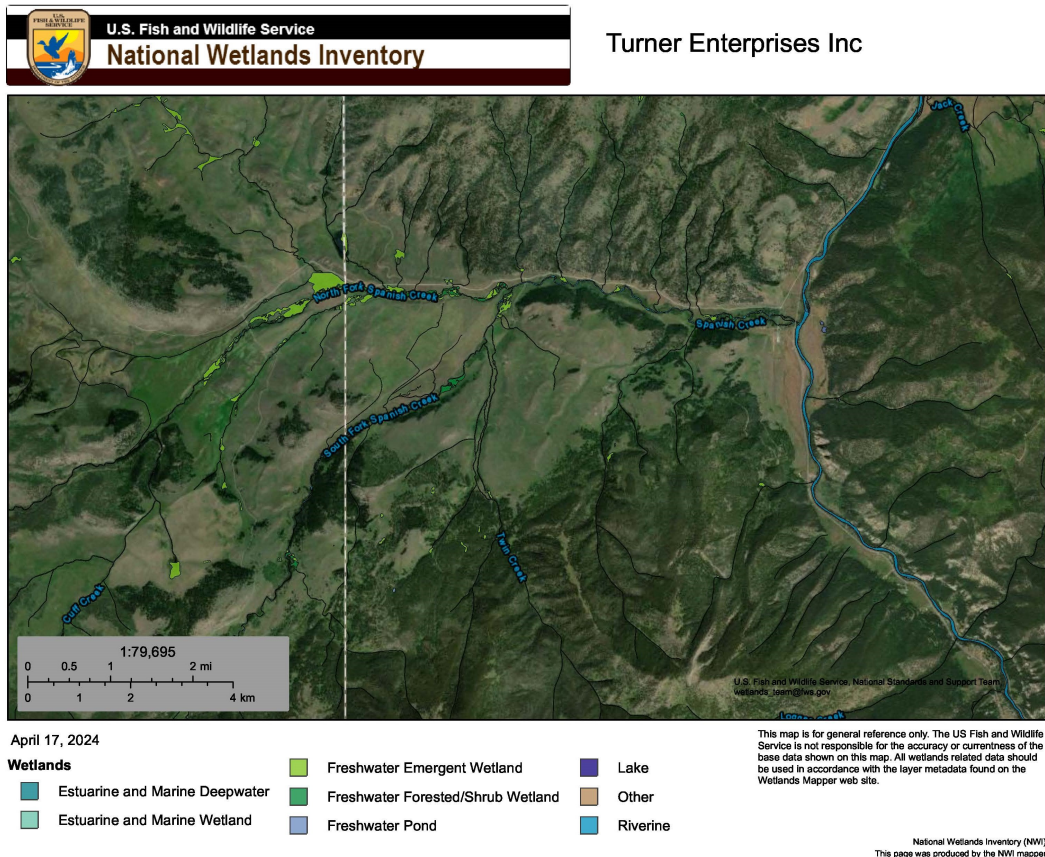


Figure 2. National Wetland Inventory Mapper of proposed project area

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

Determination: No significant impact identified.

There are no ponds involved in this Change Application.

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.

An April 17, 2024, search of the NRCS Web Soil Survey identified low surface salinization risk in the project area. The proposed project is not predicted to increase soil salinization risk. There will no longer be irrigation and stock use within the historic POU, and South Fork of Spanish Creek water will remain in the creek. The proposed project does not anticipate having any significant impact on soil quality, stability, or salinity.

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.

The proposed project does not anticipate having any significant impact on vegetation cover, quantity, or quality. Under Montana law, private landowners are responsible for noxious weed control on their property.

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

Determination: No significant impact identified.

The proposed 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: No significant impact identified.

The proposed project is not located on State or Federal Lands. The Applicant did not mention 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 impacts on environmental resources of land, water, or energy not already addressed.

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.

This project is a Change Application proposing to change the POD, POU, and purpose of multiple Statements of Claim to instream fisheries use, which is a recognized beneficial use of water within the State of Montana (§85-2-102(5), MCA). The Applicant submitted support from FWP for instream fishery use in the South Fork of Spanish Creek and Spanish Creek.

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 significant impact identified.

The proposed change is located within the South Fork of Spanish Creek and Spanish Creek, which are important for fish rearing for the Gallatin River fishery. The proposed project results in water being left instream, which benefits fish populations and recreational fishing activities that occur within Spanish Creek and the Gallatin River. The proposed project will not impact access to recreational and wilderness activities and will improve the quality of these activities.

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

Determination: No significant impact identified.

The project 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 significant impact identified.

This 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 significant impact identified.
- (b) Local and state tax base and tax revenues? No significant impact identified.
- (c) Existing land uses? No significant impact identified.

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

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

Secondary Impacts No significant secondary impacts identified.

Cumulative Impacts No significant cumulative impacts identified.

3. Describe any mitigation/stipulation measures: The Applicant proposes to monitor stream flow levels at three measurement sites along the protected reach. For the change authorization to be granted by the DNRC, the Applicant must prove the criteria in §85-2-402 MCA are met.

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 Application is not authorized, South Fork of Spanish Creek and Spanish Creek, will continue to provide the same habitat and fishing opportunities that it currently does. The no action alternative is for the Applicant to continue to divert water for irrigation use, as done historically.

PART III. Conclusion

1. Preferred Alternative The preferred alternative is to grant the change application if the Applicant has proven the criteria of §85-2-402, MCA.

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:

The EA is the appropriate level of analysis because the proposed project is to change the POD, POU, and purpose of Statements of Claim 41H 128147-00, 41H 128150-00, 41H 128151-00, 41H 128152-00, 41H 128153-00, 41H 128156-00, 41H 128157-00, 41H 132730-00, 41H 132744-00, 41H 132746-00, 41H 132755-00, 41H 132768-00, and 41H 132776-00 to instream fisheries use in the South Fork of Spanish Creek and Spanish Creek. Instream fisheries is considered a beneficial use of water and is supported by wildlife regulatory agencies. No significant impacts were identified as defined in ARM 36.2.524.

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

Name: Savannah Telander

Title: Water Resources Specialist

Date: 5/17/2024