

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: State of Montana DNRC-Water Projects Bureau
1424 9th Ave.
PO Box 201601
Helena, MT 59620-1601

2. Type of action: Application to Change an Existing Non-Irrigation Water Right No. 40L 30065640

3. Water source name: Frenchman Creek

4. Location affected by project: NWSWNE, Section 23, T34N, R34E, Phillips County

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

The Applicant is proposing to change the purpose of Statement of Claim 40L 119577 00 from irrigation to water marketing. The historical purpose of this water right is actually sale of water and not irrigation, based on information including a contract provided by the Applicant. The Applicant is proposing this purpose change to reflect the actual historical use of the right. The Applicant also proposes to change the place of use from specific legal land descriptions of where water purchasers apply contract water to: NWSWNE, Section 23, T34N, R34E, Phillips County, which is at the dam where sold water is regulated. The Applicant also provided a place of use clarification to reflect the general service area of water sold through the provided contract.

The DNRC 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 (DFWP)
Montana Department of Environmental Quality
Montana Natural Heritage Program
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.

Determination: No data regarding chronic or periodic dewatering was available from the DFWP for Frenchman Creek. Since the proposed change will not have any impact on how the water right has been operated historically, there is unlikely to be any significant change in the water condition of the creek.

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: Frenchman Creek is listed on the Montana DEQ site as having a water quality category 4C, which means identified threats or impairments result from pollution categories such as dewatering or habitat modification, thus a TMDL is not required. Frenchman Creek is listed as fully supporting drinking water and partially supporting agriculture, aquatic life, and primary contact recreation. Probable sources of the impairment are likely due to impoundment of the creek or grazing in riparian shoreline. Further impairment of Frenchman Creek because of this project is unlikely since this project is already complete. The proposed change is not expected to have any significant impact on water quality.

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: The proposed project is a surface water diversion and should have no impact on groundwater.

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: The proposed project has already been completed and has been in use for over 60 years. The nature of the change proposed should not contribute any new significant impact to channel impacts, flow modifications, barriers, riparian areas, or dams within the project area.

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: Six animal species of concern were identified to potentially inhabit the project area. The Great Blue Heron, Sprague's Pipit, Greater Sage-Grouse, Chestnut-collared Longspur, and Brewer's Sparrow along with the Iowa Darter were identified by the Montana Natural Heritage Program. Since this project is already complete and the changes proposed will not affect how this water right has been operated historically, it is not expected that there will be significant impact to the animal community in the project area. There were no plant species of special concern identified within the project area.

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 wetland resources are expected to be significantly impacted due to the proposed water right change. Construction of the diversion dam has been completed and has been in use for over 60 years.

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

Determination: No ponds have been identified in 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.*

Determination: Since this project has already been completed there will be no new degradation of soil quality, alteration of soil stability, moisture content, or the creation of saline seeps associated with the proposed change.

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: Since this project has already been completed there will be no new impact to existing vegetative cover or spread of noxious weeds related to the proposed change.

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

Determination: There will be no deterioration of air quality or increase of air pollutants related to the proposed change.

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: This project has already been completed and the proposed change will have no significant impact to archeological or historical sites in the vicinity of the project.

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 impacts to environmental resources of land, water, and energy 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 environmental plans or goals will be impacted by this project.

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 access or recreational activities will be significantly impacted by this project.

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

Determination: The proposed project will have no significant impact on human health.

PRIVATE PROPERTY - Assess whether there is 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.

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? None 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: Not Applicable

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:

This project has been completed and has been in use for over 60 years. The proposed change will not create any changes to how the project has been historically operated and there will be no new construction related to the proposed change.

PART III. Conclusion

1. Preferred Alternative

Issue a change authorization if the applicant proves the criteria in 85-2-402, 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:

No significant impacts related to the proposed project have been identified.

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

Name: Nathaniel T. Ward
 Title: Water Resource Specialist
 Date: December 12, 2013