

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: Kempf Revocable Living Trust, Phyllis Kempf, Trustee, 50 Susie Creek Road, McLeod, MT 59052
2. Type of action: Application for Beneficial Water Use Permit 43BJ 30068791
3. Water source name: Unnamed Tributary to the Boulder River
4. Location affected by project: Section 28 T2S R13E, Sweet Grass County
5. Narrative summary of the proposed project, purpose, action to be taken, and benefits: The Applicant proposes to divert water by means of a dam to an existing onstream reservoir for the purpose of a recreational fishery. The reservoir (Lake Maryanne) was constructed in 1977 and has been permitted by the Montana Department of Fish, Wildlife and Parks as a private fish pond. After the pond was constructed, the owner failed to apply for a water right on the fishery. This application attempts to correct that omission. The project is a 1.6 acre surface area pond with a capacity of 7.8 AF and is fed by a perennial spring. When built the natural diffuse flow of the spring was channelized and low spots often occupied by beaver ponds were deepened to produce the current fish ponds. Because the fishery is an onstream reservoir, the Applicant is requesting enough water for one fill of the pond and year around evaporation. No changes to the physical layout or operation of the pond, which has existed for over 35 years, is anticipated.

The DNRC shall issue a water use permit if an applicant proves the criteria in 85-2-311 MCA are met.

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

Montana Department of Fish, Wildlife and Parks
Montana Department of Environmental Quality
United States Fish and Wildlife Service
Web Soil Survey, National Resources Conservation Service
Montana Natural Heritage Program

Part II. Environmental Review

1. **Environmental Impact Checklist:**

PHYSICAL ENVIRONMENT

WATER QUANTITY, QUALITY AND DISTRIBUTION

Water quantity – The unnamed tributary to the Boulder River is not listed as a chronically or periodically dewatered stream by the Montana Department of Fish, Wildlife and Parks. The spring that sources the unnamed tributary flows year around and based on aerial photographs has always entered the Boulder River at or near the current confluence. The proposed use does not divert additional water from the source.

Determination: No Impact.

Water quality – The unnamed tributary to the Boulder River is not listed as water quality impaired by the Montana Department of Environmental Quality. There are no aspects of the operation of this pond as a recreational fishery that would impact water quality.

Determination: No Impact.

Groundwater – The proposed project does not impact groundwater. Infiltration of water from the original spring and from the fishery would be roughly comparable in quantity and no different in terms of water quality.

Determination: No Impact.

DIVERSION WORKS – The diversion works for this pond is an onstream earthen dam constructed in 1977. When constructed, the pond and associated channels followed existing beaver ponds and diffuse flow patterns. Authorization of a beneficial water use permit would not impact any barrier, riparian areas, or channels. No construction is planned as a result of this application.

Determination: No Impact.

UNIQUE, ENDANGERED, FRAGILE OR LIMITED ENVIRONMENTAL RESOURCES

Endangered and threatened species – According to the Montana Natural Heritage Program, the United States Forest Service lists the Wolverine as a sensitive species and the grizzly bear as a threatened species and the Bureau of Land Management lists both species as sensitive. There are no listed plant species of concern in the project area. The project has been in place for decades and will not alter any condition existing at present.

Determination: No Impact.

Wetlands – The National Wetlands Inventory from the United States Fish and Wildlife Service shows very small amounts of wetland in the area. The wetlands that do exist are palustine emergent wetlands periodically flooded adjacent to the Boulder River. No wetland areas would be impacted by this project.

Determination: No Impact.

Ponds – This pond has been permitted as a private fish pond by the Montana Department of Fish, Wildlife and Parks for 30 years. The regional fisheries manager for the Department believes that the pond has proven itself adequate to sustain a viable fish population. The DFWP oversees stocking of the pond to prevent genetic risk and downstream impacts.

Determination: No Impact.

GEOLOGY/SOIL QUALITY, STABILITY AND MOISTURE – Soils in the region are loam or clay loam with very low slope (0 to 2 degrees). They are well drained and non-saline. The proposed project will not alter soil stability, quality or moisture content because the project proposes no movement or involvement of soils.

Determination: No Impact.

VEGETATION COVER, QUANTITY AND QUALITY/NOXIOUS WEEDS – The fishery has been in place since 1977 and no construction or alteration of any existing access or structure is proposed. There will be no impact to existing vegetation and no potential for the spread of noxious weeds.

Determination: No Impact.

AIR QUALITY – The project is for a fishery and will have no impact on air quality.

Determination: No Impact.

HISTORICAL AND ARCHEOLOGICAL SITES – Not applicable because the project is not located on State or Federal Lands.

Determination: Not Applicable.

DEMANDS ON ENVIRONMENTAL RESOURCES OF LAND, WATER, AND ENERGY – No demands on any environmental resource are recognized as a result of this project.

Determination: No Impact.

HUMAN ENVIRONMENT

LOCALLY ADOPTED ENVIRONMENTAL PLANS AND GOALS – There are no known locally adopted environmental plans or goals.

Determination: Not Applicable

ACCESS TO AND QUALITY OF RECREATIONAL AND WILDERNESS ACTIVITIES – There is no access to recreational or wilderness activities across the proposed project area. The project would have no visual or traffic impacts as it is on private land and beautifully landscaped at present.

Determination: No Impact.

HUMAN HEALTH – The project is a fishery that has been in existence for decades.

Determination: No 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: Not Applicable.

OTHER HUMAN ENVIRONMENTAL ISSUES –

Impacts on:

- (a) Cultural uniqueness and diversity? No Impact.
- (b) Local and state tax base and tax revenues? No Impact.
- (c) Existing land uses? No Impact.
- (d) Quantity and distribution of employment? No Impact.
- (e) Distribution and density of population and housing? No Impact.
- (f) Demands for government services? No Impact.
- (g) Industrial and commercial activity? No Impact.
- (h) Utilities? No Impact.
- (i) Transportation? No Impact.
- (j) Safety? No Impact.
- (k) Other appropriate social and economic circumstances? No Impact.

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

Secondary Impacts: No secondary impacts are predicted from the proposed project.

Cumulative Impacts: There is one other pending permit application in the area that deals with ponds within the same set of ponds but now under different ownership. There is no likelihood that cumulative impact would result.

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 alternative to the granting of a beneficial water use permit is the no action alternative. The no action alternative leaves everything in place as it exists at present and denies the applicant a permit. The proposed project also leaves everything in place as it exists at present but provides the applicant a permit to continue using water.

PART III. Conclusion

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

2. **Comments and Responses:** None

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 environmental impacts associated with this project were recognized. Therefore, an environmental impact statement is not required and an environmental assessment is sufficient.

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

Name: Mark Elison
Title: Hydrospecialist
Date: 8/11/2014