

MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
WATER RESOURCES DIVISION
WATER RIGHTS BUREAU

ENVIRONMENTAL ASSESSMENT

PART I. PROPOSED ACTION DESCRIPTION

1. **Type of action:** WATER RIGHT PERMIT APPLICATION NO. 76D-Y112210-00
2. **Applicant/Contact name and address:**
RANDAL AND PAMELA OLSON
PO BOX 506
PECATONICA, IL 61063
3. **Water source name:** BRIMSTONE CREEK, TRIBUTARY OF FORTINE CREEK
4. **Location affected by action:** SWSESW SEC 29, TWP 34N, RGE 25W, LINCOLN COUNTY
5. **Narrative summary of the proposed project and action to be taken:** THE DNRC SHALL ISSUE A WATER USE PERMIT IF AN APPLICANT PROVES THE CRITERIA IN 85-2-311, MCA ARE MET. THIS APPLICATION IS FOR A WATER USE PERMIT FOR AN OFF STREAM POND. THE APPROPRIATION WILL BE FOR 63 GALLONS PER MINUTE UP TO 67.4 ACRE-FEET FROM BRIMSTONE CREEK, A TRIBUTARY OF FORTINE CREEK. THE WATER WILL BE USED FOR A FISH, WILDLIFE, AND RECREATION POND IN THE N2NWNW OF SECTION 32, TWP 34N, RGE 25W, LINCOLN COUNTY. THE POINT OF DIVERSION IS IN THE SWSESW OF SECTION 29, TWP 34N, RGE 25W, LINCOLN COUNTY.

THIS IS A PERMIT APPLICATION FOR WATER USE IN AN EXISTING POND. THE CAPACITY OF THE EXISTING POND IS 1.9 ACRE-FEET AND WILL REMAIN THE SAME. THE POND, ORIGINALLY CONSTRUCTED IN THE MID 1980s, IS NOW USED AS A STORAGE POND FOR IRRIGATION PURPOSES (76D-P031189-00 and 76D-P034178). PERMIT NO. 76D-P034178 IS FOR WATER FROM BRIMSTONE CREEK WITH THE SAME POINT OF DIVERSION AND MEANS OF CONVEYANCE AS REQUESTED ON THIS NEW PERMIT APPLICATION. THE PERIOD OF APPROPRIATION AND THE PERIOD OF USE FOR THE IRRIGATION PERMITS ARE MAY 1 TO SEPTEMBER 1. THE PERIOD OF APPROPRIATION FOR THE NEW PERMIT WILL BE SEPTEMBER 1 TO MAY 1 AND THE PERIOD OF USE WILL BE JANUARY 1 TO DECEMBER 31.
6. **Agencies consulted during preparation of the environmental assessment:**
MONTANA HISTORICAL SOCIETY
MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY
MONTANA NATURAL HERITAGE PROGRAM

PART II. ENVIRONMENTAL REVIEW

1. Environmental Impact Checklist:

PHYSICAL ENVIRONMENT

Soils/Geologic Features:

Degradation of soil quality or alteration of soil stability, moisture content, geologic substructure, unique geologic features, archeological sites?

ANY DEGRADATION OF THE SOIL OCCURRED DURING THE CONSTRUCTION OF THE POND, THE CONVEYANCE SYSTEM, AND DIVERSION STRUCTURE IN THE MID 1980s. THE OPEN PIPELINE

DIVERSION MEANS WILL BE REPLACED WITH A HEADGATE THAT WILL REGULATE THE FLOW. MINOR CONSTRUCTION WORK IS NECESSARY TO INSTALL THE HEADGATE.

FURTHER DEGRADATION OF SOIL, GEOLOGY, OR UNIQUE FEATURES IS NOT ANTICIPATED. THE MONTANA HISTORICAL SOCIETY STATED THERE ARE CURRENTLY NO PREVIOUSLY RECORDED HISTORIC OR ARCHAEOLOGICAL SITES IN THE AREA OF THE APPLICATION PROJECT.

Erosion:

Alteration of erosion or siltation patterns, which modify stream beds or lake shores?

THE PROJECT IS NOT ANTICIPATED TO CAUSE ANY EROSION OR SILTATION IN BRIMSTONE CREEK. BRIMSTONE CREEK IS NOT IN NEED OF TOTAL MAXIMUM DAILY LOAD DEVELOPMENT ACCORDING TO THE MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY.

THE RIPARIAN ZONE IN THE PROJECT AREA HAS BEEN HEAVILY MODIFIED AND DEGRADED BY LIVESTOCK THAT HAVE COMPLETE, UNFETTERED ACCESS TO BRIMSTONE CREEK (ON SITE OBSERVATION). THE POINT OF DIVERSION HAS BEEN DEGRADED AS WELL AS THE INLET CHANNEL TO THE POND. CHANGING THE MEANS OF CONTROLLING THE DIVERSION FROM AN OPEN PIPE TO AN ENGINEERED HEADGATE MAY HELP TO REGULATE FLOW AND CONTROL EROSION. FURTHER ACTIVITY MAY BE REQUIRED BY THE APPLICANT TO CONTROL LIVESTOCK IN THE AREA ADJOINING THE POINT OF DIVERSION.

Vegetation/Noxious weeds:

Change in or adverse affect on diversity and production of local plant species including any unique or endangered species (including trees, shrubs, grass, and aquatic plants)? Establishment or spread of noxious weeds?

SINCE ONLY MINOR CONSTRUCTION WORK IS REQUIRED TO INSTALL THE HEADGATE, THE FLORA SHOULD NOT BE IMPACTED. THE POND HAS BEEN IN PLACE FOR ABOUT 15 YEARS. AN ADVERSE AFFECT ON THE DIVERSITY AND PRODUCTION OF LOCAL PLANT SPECIES OCCURRED DURING THE INITIAL CONSTRUCTION OF THE POND.

THE MONTANA NATURAL HERITAGE PROGRAM IDENTIFIED THREE PLANT SPECIES AS SENSITIVE BY THE USFS IN THE BRIMSTONE CREEK AREA. THE THREE PLANTS ARE (1) SMALL YELLOW LADY'S-SLIPPER (CYPRIPIEDIUM PARVIFLORUM) – VULNERABLE BECAUSE OF RARITY IN THE AREA; (2) SPARROW'S-EGG LADY'S SLIPPER (CYPRIPIEDIUM PASSERINUM) – IMPERILED BECAUSE OF RARITY IN THE AREA; AND (3) ROUND-LEAVED ORCHIS (AMERORCHIS ROTUNDIFOLIA) – IMPERILED AND VULNERABLE BECAUSE OF RARITY IN THE AREA. GLOBALLY, ALL THREE ARE RANKED AS DEMONSTRABLY SECURE. THE SMALL YELLOW LADY'S-SLIPPER AND THE ROUND-LEAVED ORCHIS ARE LISTED UNDER A WATCH STATUS BY THE BLM.

NOXIOUS WEEDS WERE NOT EVIDENT DURING THE ON SITE VISIT.

Air:

Deterioration of air quality, or adverse effects on vegetation due to increased air pollutants.

NO IMPACT. ALL CONSTRUCTION ACTIVITY TOOK PLACE ABOUT 15 YEARS AGO.

Water:

Alteration of surface water or groundwater quality including but not limited to temperature, dissolved oxygen or turbidity or quantity or distribution?

THIS APPLICATION IS FOR SURFACE WATER. GROUNDWATER WILL NOT BE IMPACTED. DIVERTING 63 GPM DURING THE NON-IRRIGATION SEASON WILL NOT ALTER THE WATER QUALITY.

Floodplain:

Changes in drainage patterns, course or magnitude of flood flows, or exposure of people/property to hazards (flood)?

PEOPLE OR PROPERTY WILL NOT BE EXPOSED TO FLOODS BECAUSE OF THE USE OF WATER. THE SITE LOCATION IS IN AN AREA OF LOW POPULATION DENSITY QUITE A DISTANCE FROM A MAJOR HIGHWAY.

Wildlife Habitat/Migration:

Deterioration of critical fish or wildlife habitat? Creation of a barrier to the migration or movement of fish or wildlife?

BRIMSTONE CREEK IS CLASSIFIED AS A BULL TROUT SPAWNING STREAM. ANY ADDITIONAL IMPACT TO THE BULL TROUT WILL NOT OCCUR. THE IMPACT OCCURRED DURING THE INITIAL CONSTRUCTION OF THE IRRIGATION SYSTEM 15 YEARS AGO. THE REPLACEMENT OF THE PIPELINE WITH A HEADGATE OUTFITTED WITH A FISH SCREEN WOULD BE AN IMPROVEMENT OVER THE EXISTING DIVERSION.

FURTHER DETERIORATION OF THE FAUNA HABITAT IS NOT ANTICIPATED. KEEPING THE POND LEVEL UP DURING THE WINTER MONTHS SHOULD BE A BENEFIT TO THE WILDLIFE.

Endangered Species:

Adverse effects on any unique or endangered species?

THE GRIZZLY BEAR IS CLASSIFIED AS A THREATENED SPECIES IN THE NORTHERN CONTINENTAL DIVIDE; THE LYNX IS ON A PROPOSED THREATENED STATUS IN MONTANA; AND THE GRAY WOLF IS LISTED AS ENDANGERED IN WESTERN MONTANA. ADVERSE EFFECTS ON UNIQUE OR ENDANGERED SPECIES ARE NOT ANTICIPATED. SEE DISCUSSION UNDER WILDLIFE HABITAT MIGRATION ABOVE.

HUMAN ENVIRONMENT

Existing Land Use:

Alteration of or interference with the productivity or profitability of the existing land use of an area?

A CHANGE IN EXISTING LAND USE WILL NOT OCCUR. THE LAND IN THE AREA OF THE APPLICATION IS IN A REMOTE PART OF NORTHWEST MONTANA. SMALL FARMS ARE SCATTERED THROUGHOUT THE REGION. ALTERATIONS OR INTERFERENCE SHOULD NOT OCCUR.

Historical Significance:

Destruction or alteration of a natural area of scientific or educational value or prehistoric or paleontological importance?

THE MONTANA HISTORICAL SOCIETY STATED THERE ARE CURRENTLY NO PREVIOUSLY RECORDED HISTORIC OR ARCHAEOLOGICAL SITES WITHIN THE AREA. THEY ALSO SAID THAT BASED ON THE PREVIOUS DISTURBANCE IN THE AREA THERE IS A LOW LIKELIHOOD THAT THE PROJECT WILL IMPACT CULTURAL PROPERTIES.

Populace:

Alteration of the location, distribution, density, or growth rate of the human population of an area? Alteration of social structure of community?

NO IMPACT ON THE HUMAN POPULATION IS ANTICIPATED.

Transportation:

Increased traffic hazards or effects on existing transportation facilities or patterns of movement of people and goods?

THE PROJECT WILL NOT INCREASE TRAFFIC OR HAVE ANY EFFECT ON THE MOVEMENT OF PEOPLE OR GOODS. THE LAND IS IN AN ISOLATED AREA.

Safety:

Creation of any health hazard or affect on existing emergency response or evacuation plans?

THE AREA IS NOT ON ANY EMERGENCY EVACUATION ROUTES. THE ACTIVITIES IN THE AREA HAVE NOT CREATED ANY HEALTH HAZARDS.

Public Services:

Have an effect upon or result in a need for new or altered governmental services in any of the following areas: fire or police protection, schools, parks/recreational facilities, roads or other public maintenance, water supply, sewer or septic systems, solid waste disposal, health, or other governmental services? Have an effect upon local or state tax base?

AN INCREASE IN GOVERNMENT SERVICES IS NOT REQUIRED OR NECESSARY.

Utilities:

Creates need for new or altered facilities for any of the following utilities: electric power, natural gas, other fuel supply or distribution systems, or communications?

NEW OR ALTERED FACILITIES OF ANY UTILITIES ARE NOT ANTICIPATED. THE POWER LINES IN THIS REMOTE AREA HAVE BEEN IN PLACE FOR YEARS.

Aesthetics:

Alteration of any scenic vista or recreation opportunity or creation of an aesthetically offensive site to the public?

THE POND ALREADY EXISTS. ALTERATIONS OF ANY SORT ARE NOT ANTICIPATED.

Other:

ANY OTHER IMPACTS TO THE ENVIRONMENT ARE NOT ANTICIPATED. CUMULATIVE IMPACTS WOULD BE MINOR IF NOT NEGLIGIBLE.

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2. **Secondary and cumulative impacts:** NONE
 3. **Reasonable alternatives to the proposed action, including the no action alternative:** NO IMPACTS HAVE BEEN IDENTIFIED. IF THE APPLICATION IS NOT APPROVED, THE USE OF WATER IN THE POND FOR THE WINTER SEASON WOULD BE ILLEGAL. THE POND IS ALREADY IN PLACE. THE APPLICATION WILL ALLOW THE DIVERSION OF WATER DURING THE OFF SEASON TO BE LEGAL.

PART III. CONCLUSION

Based on the significance criteria evaluated in this EA, is an EIS required? NO

If an EIS is not required, explain why the EA is the appropriate level of analysis for this proposed action:

AN EA IS ADEQUATE FOR THIS ACTION. THERE WILL BE NO SIGNIFICANT IMPACTS, THEREFORE, NO EIS IS REQUIRED.

PREPARED BY:

NAME: JUDY JENIKER
TITLE: WATER RESOURCES SPECIALIST
DATE: [Automatic date code removed]