

ENVIRONMENTAL ASSESSMENT
For Routine Actions with Limited Environmental Impact

Revised 11-00

Note: Instructions to DNRC staff for preparing this EA can be found at:
http://www.dnrc.state.mt.us/eis_ea.html

Part I. Proposed Action Description

1. **Applicant/Contact name and address:** David Malin, Robert J. Malin, Philip A. Malin
P.O. Box 1237
Plains, MT 59859
2. **Type of action:** Application for Beneficial Water Use Permit No. 76N-P113128-00
3. **Water source name:** Henry Creek
4. **Location affected by action:** SESENE, Section 33, T20N, R25W, Sanders 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. This application is to obtain the legal right to use the water in Henry Creek for a single domestic household, 20 beef cows, and five acres of lawn & garden. The water will be diverted through an infiltration gallery where it will be pumped with a three horsepower pump. This EA checklist will address the environmental impacts due to the amount of water diverted from the source. The applicant intends to divert water at 19 gpm not to exceed 13.84 acre-feet per year.

6. **Agencies consulted during preparation of the Environmental Assessment:
(include agencies with overlapping jurisdiction)**
State Historic Preservation Office (SHPO)
Natural Heritage Program (NHP)
Montana Fish, Wildlife & Parks (FWP)
Department of Environmental Quality (DEQ)

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: Henry Creek is listed as a periodically dewatered stream by the FWP. The section of the creek that is periodically dewatered is approximately two miles downstream of the proposed point of diversion. The applicants provided water measurements conducted by the U.S. Department of Agriculture. In addition, a basin characteristics model was used to estimate yearly available water in the Henry Creek watershed. The yearly volume was estimated to be 3,605 acre-feet. The total appropriations on Henry Creek amount to 941.9 acre-feet per year. Water is physically and legally available in the source of supply at the proposed point of diversion. The proposed use is small relative to the volume of water available in the source. The applicants are able to control their diversion in times of water shortage. Water quantity will not be adversely affected due to the proposed use.

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: Henry Creek is not listed as impaired or threatened by DEQ. The initial construction of the diversion system may temporarily affect water quality. However, the proposed use of water will not have an adverse impact on Henry Creek 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: Not applicable

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: There will be temporary stream bank alteration and deterioration during the construction only. A stainless steel collector will be placed into the creek with 4" PVC pipe running to a catch basin. The catch basin will be constructed adjacent to the creek. An inline flow meter will be installed on the major diversion pipe. The system will be plumbed with shut-off valves in the three inch PVC pipe and at the pump. Water will be pumped to the applicant's property with a three horsepower pump. The diversion works are standard practice for surface water diversions.

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: A query with NHP resulted in two species of special concern within the same section as the proposed project. The applicant's property is located within Lynx habitat. Since the home exists, the use of the water will not adversely impact Lynx. The Slender Hareleaf was also identified near Henry Creek and the applicant's property. This is an uncommon plant species. Since the species was not located on the applicant's property, the proposed use will not create an adverse 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.

Determination: Not applicable.

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

Determination: Not applicable.

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: The diversion of the water will not create degradation to the soil or surrounding geology. However, raising cattle will adversely impact the soil. Although there may be an impact to soils, raising cattle is a standard practice throughout the country.

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: The Slender Hareleaf was identified near Henry Creek and the applicant's property. This is an uncommon plant species. Since the species was not located on the applicant's property, the proposed use will not create an adverse impact. The proposed use will help to keep noxious weeds away or to get rid of any that may exist.

Air quality

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

Determination: Not applicable.

Historical and archeological sites

Assess whether there will be degradation of unique archeological or historical sites near the proposed project.

Determination: A query with SHPO resulted in no known historical or archeological sites near the proposed project location.

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: Not applicable.

HUMAN ENVIRONMENT

Locally adopted environmental plans and goals

Assess whether the proposed project is inconsistent with any locally adopted environmental plans and goals.

Determination: The proposed project complies with locally adopted environmental plans and goals.

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: The proposed project is located on private property and will not interfere with public access to recreational or wilderness activities.

Human health

Assess whether the proposed project impacts on human health.

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: Private property rights are not impacted or regulated by this proposed action. The right to use water belonging to the State of Montana will become a property right if approved.

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 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:** Continued development of the water resource on Henry Creek could worsen the conditions on the stream. Reduction of flows due to the cumulative impact of new development not only may negatively impact the fishery it may also impact water quality.
3. **Describe any mitigation/stipulation measures:** The applicant agrees that water should not be diverted when the water rights of other water users would be adversely affected as a result of said diversion. The permit could be conditioned to keep late summer diversions to a minimum, thus reducing the probability of adversely affecting the water rights of others. Another alternative would be to drill a well for the proposed uses.
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 no action alternative would cause the applicants to find another source of water for their uses.

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 the appropriate level of analysis for this proposed action. No significant impacts have been identified as a result of the proposed action.

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

Name: Cristy Carter

Title: Water Resource Specialist

Date: 12-14-00