

ENVIRONMENTAL ASSESSMENT
For Routine Actions with Limited Environmental Impact

Revised 11-00

Part I. Proposed Action Description

1. **Applicant/Contact name and address:** James and Katherine Axe
PO Box 4643
Missoula, MT 59806
2. **Type of action:** Application to Change a Water Right No. 76L-G(W)134612-00
3. **Water source name:** Unnamed Tributaries of Post Creek (two sources - north and south streams)
4. **Location affected by action:** S½NE, Section 34, Twp 19N, Rge 20W, Lake County
5. **Narrative summary of the proposed project, purpose, action to be taken, and benefits:**

The DNRC shall issue an Authorization to Change a Water Right if the applicant proves the criteria in §85-2-402, MCA are met. This change application is to change portions of two existing water rights from irrigation of pasture and hay fields to a recreational water ski pond and to add storage.

The recreation pond has been excavated. The applicant had not yet started filling the pond (based on a site visit-October, 2000). The pond is 11.75 surface acres (11.75 acres or more were taken out of irrigation) with a capacity of 49 acre-feet. The dimensions of the pond are approximately 2200 long feet by 225 wide with a water depth of five (5) feet (total depth of about seven to eight feet). The perimeter of the pond and perimeter of the islands are extensively riprapped for the top three or four feet. The bottom foot of the riprap will be under water. An emergency spillway on the west end of the pond is the only outlet. The only return flow will be into the south stream. An air vent will prevent cavitation of the spillway pipe. The soil in the bottom of the pond is clay like material, therefore, little seepage, if any, is anticipated. The only substantial loss of water will be due to evaporation. Both the east and west ends of the pond have circular turn abouts with an island in the center of both of the circles. The islands will be planted with natural wild plants and flowers. Katherine Axe wants to plant a weeping willow tree on the west island. The applicant will use the existing points and means of diversion and ditches to fill and maintain the pond level.

The existing water rights being changed are 76L-W134612-00 and 76L-W134613-00. Both water rights have been amended by the applicant to more closely reflect the historical use of the water. Both water rights have been historically used for irrigation of hay and grasslands from April 15 to October 15 of each year. The water rights do not have overlapping places of use. The sources are two streams one flowing on the north side and one on the south side of the applicants' property.

Water Right No. 76L-W134612-00 (priority date – 1941) claims irrigation of 28.6 acres at a flow rate of 332 gpm up to 78.36 acre-feet. The point of diversion (south stream) is in the S½S½NE and the place of use is S½NE all in Sec. 34, Twp 19N, Rge 20W, Lake County.

Water Right No. 76L-W134613-00 (priority date – 1913) claims irrigation of 47.4 acres at a flow rate of 505 gpm up to 129.88 acre-feet. The point of diversion (north stream) is in the NESENE and the place of use is S½NE all in Sec. 34, Twp 19N, Rge 20W, Lake County.

The total flow rate of both water rights will be used for initial fill of the pond. The anticipated initial fill time will be about 12 to 13 days. After initial fill of the reservoir, the combined amount of water from both sources will be 58 gpm up to 35 acre-feet per year to maintain the reservoir level due to evaporation losses. The period of use will remain the same (April 15 to October 15).

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

Confederated Salish and Kootenai Tribes (CSKT) of the Flathead Indian Reservation
Montana Historical Society (SHPO)
Montana Natural Heritage Program (NHP)
 United States Forest Service (USFS)
 United States Fish and Wildlife Service (USFWS)
Montana Department of Environmental Quality (DEQ)
Montana Department of Fish, Wildlife, and Parks (DFWP)
Applicant, Jim Axe
Site Visit (October 18, 2000)

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: The source of supply is not a chronically or periodically dewatered stream (DFWP). The proposed project is to change the purpose of portions of two water rights. The amount of water historically used will not increase. The project should not affect water quantity or availability.

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 water bodies in the lower Flathead River watershed have been assessed as being threatened or impaired. The discharge from the pond should not have a significant impact

on the water quality. The pond is not a flow through pond. An emergency spillway at the base of the dam is the only outlet to the south stream. An outlet to the north stream does not exist.

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 use is not a groundwater appropriation. The pond is located in an area of a shallow aquifer. The applicant stated groundwater is seeping into the pond at a very slow rate. It is anticipated there will be no more seepage into the shallow aquifer than occurred historically when the land was irrigated.

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 diversion systems for the project exist. The points and means of diversion will remain the same as historically used. Minor maintenance and upgrading of the means of diversion will occur. The conveyance ditches will remain the same. The proposed project should not impact any of the above referenced items.

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: NHP indicated no known species of special concern is evident at the project location. The closest down stream source (Post Creek) is a bull trout spawning stream. The project should have little impact on the bull trout. Both unnamed tributaries of Post Creek are intermittent streams and not suitable for spawning. Two plant species in the vicinity (three and five miles from the project site) are listed as demonstrably secure but may be quite rare in parts of its range. The proposed project should have no affect on the listed, possibly endangered flora in the area. The project is located approximately four miles south of the Nipepipe National Wildlife Refuge and about two miles east of the northeast corner of the National Bison Range. The project should have little to no impact on these national treasures.

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: The project area has historically been irrigated. What wetlands existed were long ago obliterated by drainage ditches in the area. The new recreational pond could be considered a new wetland for parts of the year. The applicants are planning to plant wild grasses and flowers on the islands at each end of the long pond and use natural landscaping around the periphery of the pond.

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

Determination: The project is a conversion from irrigated land to a pond. Ponds did not exist on the property until construction of the recreation pond in the summer and fall of 2000. Wildlife, waterfowl, and fisheries will not be significantly impacted.

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: An extensive amount of degradation of soil quality took place during the excavation of the pond. The land surrounding the pond was not impacted to any degree and appeared to be in good shape. The excavator was surprised to find a significant number of large boulders during excavation. Deposits of glacial clay occur extensively throughout the valley. Apparently, the applicant had a soil scientist determine the soil was mostly clay on the project site. Heavy salts were not evident at the project site. The project should not cause any saline seep. No impacts are anticipated.

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 project site was hay and grass land. The existing vegetative cover at the pond site was stripped bare while the vegetative cover surrounding the pond was intact. Noxious weeds were not evident at the project site. The vegetative cover was mowed and will continue to be kept esthetically pleasing. The applicant appeared quite aware of the control of noxious weeds.

Air quality

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

Determination: An increase in odors, dust, and noise pollution occurred during excavation of the pond. The vegetative cover around the pond site did not appear worse for the wear and tear during excavation. Deterioration of the air (both from pollutants from gas emission engines and noise level) may occur due to the use of water skis. FWP stated it would not be any more significant than the use of motor boats (which is acceptable).

Historical and archeological sites

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

Determination: SHPO's records indicated there currently are no previously recorded cultural properties located in the area. Based on the lack of a previous study, the low topography, and access to a perennial water source, SHPO feels the project has the potential to impact cultural resources. The project site is in the middle of the Mission Valley. This area has been extensively farmed since the early 1900s. Any cultural resources have long been destroyed by plowing, irrigating, clearing, and general farming of the land. Livestock are quite common in the area and have contributed to the destruction of any historic sites. The project will not impact the historical or archeological significance of the site.

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: Additional impacts on other environmental resources were not 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: The project should not be inconsistent with environmental plans and goals as none were identified.

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 to the quality of recreational and wilderness activities is anticipated. The project location is not near any wilderness or public recreational area except as described above. The project location is in the center of a large farming and ranching community.

Human health

Assess whether the proposed project impacts on human health.

Determination: The project will produce noise pollution and fuel emissions from the individual water skis. However, the project is located well within the applicant's property lines and is a significant distance from any dwellings. The noise and air pollution should cause no significant impact. Other potential impacts on human health are not evident.

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 impacts.

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
 - (b) Local and state tax base and tax revenues? No significant impact
 - (c) Existing land uses? The existing land use in the adjacent area of the applicants property should remain the same. Because Lake County is one of the fastest growing counties in the state, significant subdivision of property is anticipated. The project will not impact any future land use of the surrounding area.
 - (d) Quantity and distribution of employment? The project is a privately owned enterprise. Any employment outside of the immediate family is not anticipated.
 - (e) Distribution and density of population and housing? No significant impact
 - (f) Demands for government services? No significant impact
 - (g) Industrial and commercial activity? No significant impact
 - (h) Utilities? No significant impact
 - (i) Transportation? No significant impact
 - (j) Safety? Safety is the responsibility of the landowner.
 - (k) Other appropriate social and economic circumstances? No significant impact
- 2. Secondary and cumulative impacts on the physical environment and human population:** All impacts identified throughout this environmental assessment are due to the proposed land use. The diversion of water is secondary. The project location has been irrigated for years. After initial fill of the pond, the amount of water historically used will probably decrease. No negative cumulative impacts to the environment are anticipated.
- 3. Describe any mitigation/stipulation measures:** No mitigation measures are required or necessary.

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:

Deny the Authorization to Change due to environmental impacts. The potential adverse impacts are not significant enough to deny the change application.

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: Significant impacts have not been identified. The EA is the appropriate level of action for this project.

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

Name: Judy Jeniker

Title: Water Resources Specialist

Date: [Automatic date code removed]