

Montana Department of Natural Resources and Conservation  
Water Resources Division  
Water Rights Bureau

**ENVIRONMENTAL ASSESSMENT**  
**For Routine Actions with Limited Environmental Impact**

Note: Instructions to DNRC staff for preparing this EA can be found at:  
[http://www.dnrc.state.mt.us/eis\\_ea.html](http://www.dnrc.state.mt.us/eis_ea.html)

**Part I. Proposed Action Description**

1. *Applicant/Contact name and address:* Charles & Amelia Kelly  
4585 Jordan Spur Rd.  
Bozeman, Mt. 59715
2. *Type of action:* Application To Change A Water Right # G(W)23562-00-41H
3. *Water source name:* Middle Cottonwood Creek
4. *Location affected by project:* Sec 7 & 18 T1S R6E, Gallatin County
5. *Narrative summary of the proposed project, purpose, action to be taken, and benefits:*  
The place of use for an existing domestic claim is being changed from irrigation on a specific three acres to any three acres within a seven acre parcel. The applicants acquired a stock claim, and propose to change the place of use to their property. Both their claims divert water from January 1 to December 31. The DNRC shall issue an Authorization to Change if the applicant proves the criteria in #85-2-402 are met.
6. *Agencies consulted during preparation of the Environmental Assessment:*  
(include agencies with overlapping jurisdiction) Montana State Historic Preservation Office, Montana Natural Heritage Program, Gallatin County Planning Office, Montana Department of Fish, Wildlife & Parks, Montana Department of Environmental Quality, Montana Water Courts.

**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 water is Middle Cottonwood Creek, which has not been listed as chronically or periodically dewatered by the MDFWP. This water is already being diverted. Conditions of the creek will not be altered.

**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:* Middle Cottonwood Creek is not listed on the DEQ, 303(d) list. Water quality will not be changed, by this proposed project.

**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:* This change in use of surface water will 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 same water will be diverted into the same ditch. No impact on Middle Cottonwood Creek.

#### **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:* The Montana Natural Heritage Program was contacted. It is possible that slender wedgegrass, and a stonefly may be found near the proposed place of use. Both are species of concern. This change should not create a barrier to the migration or movement to fish or wildlife.

**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:* This change will not affect any existing wetlands that may exist in the area.

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

*Determination:* This change does not involve a pond.

**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:* There should be no significant impact on soil quality or stability. There is no evidence of saline seep near the project location.

**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:* Existing vegetative cover will not be changed.

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

*Determination:* There should be no impact on air quality relating to this Change.

**HISTORICAL AND ARCHEOLOGICAL SITES** - Assess whether there will be degradation of unique archeological or historical sites in the vicinity of the proposed project.

*Determination:* The Montana State Historic Preservation Office was contacted. Since no new ground will be disturbed they believe that this change would create a low likelihood that cultural resources would be impacted.

**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 additional impacts on other environmental resources were 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 Gallatin County Planning Board has no restrictions against changing the place of use on an existing stock claim, or changing the place of use for irrigated ground.

**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:* This project is located on private land, with no access to recreational or wilderness activities. No impact is expected.

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

*Determination:* No impact on human health is expected.

**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 by this proposed action.

**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:***

Secondary Impacts If the stockwater is changed from the northern fork of the Arnold-Toohey ditch, to the southern fork, the other water users on the old ditch may have difficulty getting their water. All the carriage lose will be absorbed be the remaining water users. The northern fork of this ditch may go dry. There should be no impact to the human population.

Cumulative Impacts There are no cumulative impacts to the physical environment, or human population.

**3. *Describe any mitigation/stipulation measures:*** No mitigation measures are planned at this time.

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 applicants could continue to irrigate the three acres that were historically irrigated. They could supply stockwater using their house well, and not change the stock right.

*PART III. Conclusion*

1. **Preferred Alternative** The applicants would prefer that we approve this change.
2. **Comments and Responses** No comments received to date.
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:* 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:* Jan R. Mack

*Title:* Water Resources Specialist

*Date:* April 29,2004