EA Form R 1/2001

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

Part I. Proposed Action Description

1. *Applicant/Contact name and address*:

Murphy's Ox Yoke Ranch
PO Box 1693
Emigrant, MT 59027

2. *Type of action*: application to change a water right # 30016354-43B

3. *Water source name*: Fridley Creek

4. *Location affected by project*:
FRIDLEY CREEK FROM ITS CONFLUENCE WITH THE YELLOWSTONE RIVER UPSTREAM APPROXIMATELY 0.25 MILE TO THE LOCATION OF THE POINT OF DIVERSION OF THE WATER RIGHT BEING CHANGED IN THE NWSWNE SEC. 33 T5S R8E PARK, CO.

5 *Narrative summary of the proposed project, purpose, action to be taken, and benefits*:

Proposed change:

THE CHANGE IS ASKING TO USE HISTORIC WATER AND ENHANCE INSTREAM FLOW TO BENEFIT THE FISHERY RESOURCE IN THE YELLOWSTONE RIVER. THE PROPOSED CHANGE WILL TAKE THE CLAIMED 71.5 ACRES LOCATED IN SESESE, SEC. 28, AND NENE SEC. 33, T5N, R8E, PARK, CO. AND REDUCE IT TO 24 ACRES IN THE NENE SEC. 33, T5N, R8E AND IRRIGATE THOSE 24 ACRES FROM MAY 15 THRU JUNE 25 DURING HIGH SPRING FLOWS. THE END RESULT 4.35 CFS WILL BE DIVERTED DURING HIGH SPRING FLOW TO THE 24 ACRES DESCRIBED ABOVE DURING THE DATES OF 5/15 THRU 6/25. FROM 6/26 THRU 9/11 4.35 CFS WILL BE LEFT IN THE NORTH FORK OF FRIDLEY CREEK FOR THE PURPOSE OF INSTREAM FLOW. TWO ADDITIONAL POINTS OF

DIVERSION ARE PROPOSED AS WELL, ONE LOCATED IN THE NWSWNE AND THE OTHER IN NESENE, SEC. 33, T5S, R8E, PARK, CO.

Past use of water:

WATER HAS HISTORICALLY BEEN USED FOR IRRIGATION AT A RATE OF4.34 CFS. WITH 6.5 ACRES IN THE SESESE OF SEC. 28 AND 65 ACRES IN THE NENE SEC. 33 ALL IN T5N, R8E, PARK, CO. BOTH POINTS OF DIVERSION ARE LOCATED IN THE NWSWNE, SEC. 33, T5S, R8E. WATER IS DIVERTED FROM THE NORTH FORK OF FRIDLEY CREEK FROM MAY 15 THRU OCTOBER 19 WITH PRIORITY DATES OF MARCH 1, 1878 AND APRIL 2 1873.

THE DNRC SHALL ISSUE AN AUTHORIZATION TO CHANGE A WATER RIGHT IF THE APPLICANT PROVES THE CRITERIA IN §85-2-402, 85-2-407 AND 85-2-408 A ARE MET.

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

Montana State Historical Preservation office, Montana Natural Heritage Program, Montana Department of Fish, Wildlife & Parks, Montana Department of Environmental Quality, Park County Planning Office.

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: This reach of Fridley Creek has been dewatered and cut-ff from the main stem of the Yellowstone River. DFWP and Trout Unlimited are behind this project as it will restore the fishery.

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: Fridley Creek has not been listed on the DEQ, 303(d) list. Water quality should not be impacted by leaving water instream.

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 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: Water will be diverted into an existing headgate & pipeline during high spring flow. There will be no channel impacts, dams, or barriers created.

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. Yellowstone Cutthroat trout can be found in this area. The intent of conjoining Fridley Creek With The Yellowstone River is to provide spawning habitat for Yellowstone Cutthroat trout. This could provide a positive impact for this species.

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: There would be no impact to any wetlands if they exist.

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

Determination: This project does not involve ponds.

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 moisture content of the ground may not change. Soil quality and stability remain unchanged. There is no saline seep in this area.

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 riparian vegetation will be unchanged. Noxious weeds will not be spread be this project.

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 significant impact on air quality relating to this proposed project.

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

Determination: Since no land will be disturbed, and diverted water will be left instream, they believe there is a low likelihood that unidentified cultural properties will 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 Park County Planning Board has no restriction against instream flows.

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: By restoring Fridley Creek it may provide better fishing opportunities.

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___ 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 impacts Identified

(*b*) *Local and state tax base and tax revenues?* No impacts Identified

(c) Existing land uses? No impacts Identified

(*d*) *Quantity and distribution of employment?* No impacts Identified

(e) Distribution and density of population and housing? No impacts Identified

(f) Demands for government services? No impacts Identified

(g) Industrial and commercial activity? No impacts Identified

(h) Utilities? No impacts identified

(i) Transportation? No Impacts Identified

(j) Safety? No Impacts Identified

(k) Other appropriate social and economic circumstances? No Impacts Identified

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

Secondary Impacts No Secondary Impacts have been identified

Cumulative Impacts No Cumulative impacts have been identified

3. *Describe any mitigation/stipulation measures:*
No Measures have been identified

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 leave the stream dewatered and isolated as a fishery.

PART III. Conclusion

1. Preferred Alternative: To proceed with the process

2 Comments and Responses: None at this time

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 <u>why</u> the EA is the appropriate level of analysis for this proposed action:
An EA is adequate for this project.

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

Name: Porter Dassenko
Title: Water Resources Specialist
Date: 2/24/2006