

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

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

Part I. Proposed Action Description

Applicant/Contact name and address: **ML BAR RANCH, LLC
8818 STABLE CREST BLVD
HOUSTON, TX 77024-7034**

1. Type of action: **CHANGE APPLICATION 30024882-411
(411 5038, 5039, 5040, 5041, 128108, 128109, 128110)**
2. Water source name: **Deep Creek**
3. Location affected by action: **Sec. 27, 28, 29, 33, 34, 35, 36, TWP 7N RGE 3W,
Broadwater County**
4. Narrative summary of the proposed project, purpose, action to be taken, and objectives:

This application is for a proposed change in the point of diversion, means of diversion, means of conveyance, and place of use on all seven statements of claim. The proposed changes would apply only to the portion of the claims owned by ML BAR RANCH, LLC. The applicant is proposing these changes due to a highway project on U.S. Highway 12 which obliterated the historic Brogan-Ballard-Jacobson-Ward ditch.

The historic point of diversion no longer can supply water to the place of use due to a highway project. The proposed points of diversion occur on Deep Creek.

The proposed change from historically used headgates includes the use of a pump to divert water out of Deep Creek into pipelines. Proposed pipelines will convey water to the pivot, handline, and wheel line sprinkler systems.

The historic ditch will no longer convey water to the place of use. The proposed means of conveyance will be a pipeline.

The proposed changes in the place of use would occur in Sec. 27, 28, 33, 34, 35, 36, TWP 7N RGE 3E. Thirty-nine (39) acres of historic irrigation in Sec. 27, 28, 33, and 34 will be taken out of production. The water taken out of production will be relocated to twenty (20) new acres under a pivot sprinkler irrigation system in Sec. 27, 33, and 34, and nineteen (19) new acres under a pivot irrigation system in Sec. 36.

The DNRC shall issue an authorization to change to the applicant if the criteria in 85-2-402, MCA are met.

Agencies consulted during preparation of the Environmental Assessment:
(Include agencies with overlapping jurisdiction)

MT Natural Heritage Program - Species of Concern, T/E
MT Dept. of Environmental Quality - 2006 Montana Water Quality Integrated Report
MT Dept. of Fish, Wildlife and Parks - Montana Fisheries Information System
The Montana Noxious Weed Survey and Mapping System

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: **No significant impact.**

Deep Creek, the source of supply is listed by DFWP as chronically dewatered from river mile 0.00 to river mile 6.0. This water right change should not have any effect on the availability of water in this source as the historic diversion amount will remain the same or will be decreased due to increased efficiency.

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 significant impact.**

The Montana DEQ Clean Water Act Information Center lists Deep Creek on the 2006 303d list. Agriculture, drinking water, industrial uses, and primary contact recreation were fully supporting; Aquatic life and cold water fisheries were partially supporting. The proposed project will not affect water quality.

Groundwater - Assess if the proposed project impacts groundwater quality or supply. If this is a groundwater appropriation, assess if it could impact adjacent surface water flows.

Determination: **No significant impact to groundwater quality or supply.**

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: **No significant impact.**

The proposed means of diversions are six (6) pump sites located along Deep Creek to supply water to the pivot, wheel line and hand line sprinkler systems. Water is conveyed to the fields via pipelines.

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: **No significant impact.**

The MT Natural Heritage Program did not identify a species of special/potential concern in the vicinity of the project area.

No plant or fish species of special concern were identified.

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: **No significant impact.**

There are no wetlands in the area of the proposed change.

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

Determination: **No significant impact.**

There are no ponds in the area of the proposed change.

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: **No significant impact.**

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: **No significant impact.**

The Montana Noxious Weed Survey and Mapping System identified noxious weeds in the proposed project area. Spotted knapweed, *Centaurea biebersteinii*, was present in the entire project area and Russian Knapweed, *Acroptilon repens*, was present in Sec. 28. The landowner is responsible for controlling any establishment of noxious weed as a result of disturbance.

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

Determination: **No significant impact.**

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 State Historic Preservation Office was not contacted about this proposed project. The land has been historically used for pasture and crops and farming**

in the area would have already disturbed any historic sites. Since the property is located on private property, the decision to conduct a cultural inventory would be at the discretion of the property owner.

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 significant impact.**

The proposed project will not cause any additional impacts on land, water, or energy resources.

HUMAN ENVIRONMENT

LOCALLY ADOPTED ENVIRONMENTAL PLANS AND GOALS - Assess whether the proposed project is inconsistent with any locally adopted environmental plans and goals.

Determination: **No significant impact.**

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.**

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

Determination: **No significant 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: **No impact.**

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? **No significant impact.**
- (d) Quantity and distribution of employment? **No significant impact.**
- (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? **No significant impact.**
- (k) Other appropriate social and economic circumstances? **No significant impact.**

2. Secondary and cumulative impacts on the physical environment and human population: **No adverse secondary or cumulative impacts were identified.**

3. Describe any mitigation/stipulation measures: **None.**

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:

Under the no action alternative, the project would continue to be used as it is today. There do not appear to be alternatives.

PART III. Conclusion

1. Preferred Alternative: **Issue the authorization for the proposed project.**

2. Comments and Responses: **There have been no comments or responses.**

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: **An EA is the appropriate level of analysis for this action. There are no significant impacts identified, therefore an EIS is not required.**

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

Name: **Lindsay Arthur**
Title: **Water Resource Specialist**
Date: **01/10/2007**