

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

1. Applicant/Contact name and address: *Charles Hamill, 2859 Foothill Road, Kalispell, MT 59901 and Raymond Mallery, PO Box 931, Marion, MT 59925*
2. Type of action: *Application For Beneficial Water Use Permit 76LJ 30028006*
3. Water source name: *Olson Creek*
4. Location affected by project: *E2 NW¼ NW¼, Section 20, Twp. 28N, Rge. 19W, Flathead*
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. *The applicants have constructed 3-fish ponds 5-feet deep with a total combined surface area of 0.393 acre and 1-acre-foot storage capacity. The ponds are fed by Olson Creek after the stream exits a series of three ponds upstream of the completed proposed development. The amount of water exiting the ponds ultimately determines the quantity of flow available to the users downstream who have established water rights. The permit is requested to protect future flows at historic levels to supply the Hamill/Mallery fish ponds. The amount requested in the application is 43.4 gpm up to 35.29 acre-feet from May 1 to October 31 and 24.6 gpm up to 19.68 acre-feet from November 1 to April 30 inclusive of each year. The varying flow rates during specific periods of the year are due to oxygen demand for the fish and sediment. Stream flow rates decrease during the cooler winter months. Legal ponds enhance property value and benefit the applicant.*
6. Agencies consulted during preparation of the Environmental Assessment:
(Include agencies with overlapping jurisdiction)
*Montana Natural Heritage Program
Flathead Conservation District*

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 is a small source that is not listed by DFWP and is not a tributary to another stream. It infiltrates in to the ground downstream of pond number 3.

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: The DEQ 303(d) list does not list Olson Creek. It infiltrates into the ground.

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 use is shown to be non-consumptive by the evaporative losses from the pond surfaces being offset by precipitation events captured and converted to surface water flow in Olson Creek. The infiltrating surface flow should not affect ground water 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: It appears from being onsite the source is an old outlet channel formed by water exiting the Turner ponds. The channel seems to have carved its own way across the Hamill property as waste water exiting the Turner ponds. The Beardsley diversion is a man made ditch from the overflow channel that carved its way across the Hamill property.

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 species of concern report from the Montana Natural Heritage Program lists 4-species found in the identified township and range. The Canada Lynx and Grizzly Bear may traverse the property on rare occasion but the completed ponds will have no impact. The Westslope Cutthroat Trout does not have access to Olson Creek and one plant listed as sensitive is the Giant Helleborine not located in the area of the ponds.

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 Hamill pond (pond 1) is .0426 acre and 4.4 feet deep when full. It is surrounded by cattails and has wetland characteristics and vegetation. It appears artificial but also historic indicating water from the Turner ponds has been a source of supply for many years. There will be no impact if the overflow is not disrupted.

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

Determination: As noted above, the wetland land area for pond number 1 is most likely a man made pond. Once again, if historic overflow patterns are not disrupted there should not be an impact.

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 three individual ponds have a total surface area of 0.393 acres and have been developed. Ground disturbing activities have been completed and no further impact is 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: Ground disturbing activities are complete, vegetative cover removed at the pond site and native grass observed. No impact.

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

Determination: No 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: No impact. Ground disturbing activities have already taken place. Any archeological or cultural resources inventory is at the discretion of the land 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: None

HUMAN ENVIRONMENT

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

Determination: Fish ponds are commonplace in the area.

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 impact.

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

Determination: No impact.

PRIVATE PROPERTY - Assess whether there is 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
- (b) Local and state tax base and tax revenues? No
- (c) Existing land uses? No
- (d) Quantity and distribution of employment? No
- (e) Distribution and density of population and housing? No
- (f) Demands for government services? No
- (g) Industrial and commercial activity? No
- (h) Utilities? No
- (i) Transportation? No
- (j) Safety? No
- (k) Other appropriate social and economic circumstances? No

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

Secondary Impacts None

Cumulative Impacts None

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:***

PART III. Conclusion

1. ***Preferred Alternative:*** No action will mean no legal right to appropriate water.
2. ***Comments and Responses:*** None
3. ***Finding:***
Yes___ No___ *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: No significant impacts have been identified, therefore no EIS is necessary.

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

Name: Rich Russell
Title: Water Resources Specialist
Date: June 11, 2007