

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: Bar-1 Ranch, LTD
34500 Cedar Creek Rd.
Huson, MT 59846
2. Type of action: Application To Change A Water Right Number 76M 30028123
3. Water source name: Cedar Creek, Tributary to Ninemile Creek
4. Location affected by project: N1/2 of Section 34, T16N R23W, Missoula Co.
5. Narrative summary of the proposed project, purpose, action to be taken, and benefits:

This application proposes to temporarily change the place of use and point of diversion for water right claim number 76M 210614. The applicant was ordered by the Environmental Protection Agency (EPA) to restore 23 acres of riparian and wetland vegetation that was previously disturbed during construction of several unauthorized ponds. The applicant has removed the ponds and restored the topography of the project site. The EPA mandated restoration includes replanting the disturbed site with native vegetation. The newly planted vegetation will require irrigation to become established. As the new vegetation matures irrigation requirements will diminish over time. Once the site is fully restored the water right will revert back to its original version. The temporary change will be for a period of 6 years.

The applicant proposes to add an additional point of diversion in the NENWNW Section 4, T15N, R23W. The new point of diversion is an existing infiltration box in Cedar Creek currently used by the applicant under water right number 76M 111121. The new place of use consists of 20 acres in the S2NE and 3 acres in the NENESE, both in Section 34, T16N R23W, Missoula County. The applicant will no longer irrigate 23 acres of hay pasture in the N2 and N2SE of Section 34, T16N, R23W.

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

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

Montana Historical Society

Cultural Resource File Search

Part II. Environmental Review

1. Environmental Impact Checklist:

<h2>PHYSICAL ENVIRONMENT</h2>

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.

The Department of Fish, Wildlife and Parks does not list Fire Creek as chronically or periodically dewatered (per FWP Dewatering Concern Areas, May 2005).

Determination: No impact.

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.

Cedar Creek, tributary to Ninemile Creek in Missoula County, is listed on DEQ's 303(d) list as water quality impaired. The stream is listed as fully supporting agricultural and drinking water uses, and partially supporting aquatic life, cold water fishery, industrial and recreation uses. The probable causes include alteration in stream-side or littoral vegetative covers from agriculture, forest roads and natural sources; low flow alterations from agriculture and water diversions; and sedimentation/siltation from agriculture, forest roads and natural sources.

The applicant is the sole user of Cedar Creek for agricultural uses and owns the only two diversions on the stream. The water rights out of Cedar Creek have been used on the applicant's property since April 1, 1894. The proposed change in water use will not result in an increase in the amount of water diverted or acreage irrigated using Cedar Creek. The purpose of the proposed change in water use is to make available irrigation water for restoration of native plant species planted by the applicant in a previously disturbed wetland area. The proposed new water use will improve habitat in the lower reach of Cedar Creek prior to the confluence with Ninemile Creek. The proposed change in water use will last for a period of 6 years, or until the vegetation planted by the applicant becomes established and will no longer require irrigation for survival. Although the applicant's and their predecessor's historic water use has contributed to water quality impairment, the proposed change in place of use will not further contribute to water quality impairment in Cedar Creek.

Determination: No significant impact.

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: N/A – the proposed change in water use is for an existing surface water right.

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.*

The applicant diverts water from Cedar Creek using two infiltration boxes buried in the streambed that supply water to buried pipelines. The infiltration boxes were installed in Cedar Creek several decades ago and have been in continual use ever since. The proposed change in water use will not require any additional construction activity at the diversion points. The change in water use involves the relocation of 23 acres of the place of use to the restoration area. The infiltration boxes are buried in the stream bed and do not prevent fish migration. Since there will be no construction at the diversions, there will be no impact to the stream channel or adjacent riparian areas. There will be no flow modification because the applicant will not divert more water than the historic practice. The project does not involve any dams or well construction.

Determination: No impact.

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.”*

The Montana Natural Heritage Program was contacted to determine if there are any threatened or endangered fish, wildlife, plants or aquatic species or any “species of special concern”, that could be impacted by the proposed project.

The Montana Natural Heritage Program identified the following animal species, Bull Trout, Cutthroat Trout, Gray Wolf and Canadian Lynx, and the vascular plant species Yerba Buena, occurring within the vicinity of Section 34, Township 16 North, Range 23 West, Missoula County.

According to the Montana Department of Fish, Wildlife and Parks stream survey of Cedar Creek Bull Trout and Cutthroat Trout occurrence is rare. Bull Trout and Cutthroat Trout populations in Cedar Creek should not be impacted if the change of water use is authorized because the applicant will not be allowed to divert any additional water out of the stream than what the historic practice has been. The stream condition will remain the same, with the only change being where irrigation water is applied. The diversion does not create a barrier to fish migration within the stream.

The new place of use for irrigation is a restored wetland area within the ranch's property boundaries. The wetland area will be restored to its natural condition, and there will be no loss of Gray Wolf or Canadian Lynx habitat as a result of the proposed change in place of use.

The area mapped containing Yerba Buena (a vascular plant in the Mint family) is not on the applicant's property. It is not known if Yerba Buena exists on the applicant's property.

Determination: No significant impact.

Wetlands - *Consult and assess whether the apparent wetland is a functional wetland (according to COE definitions), and whether the wetland resource would be impacted.*

This application was filed with DNRC to allow the applicant to use an existing water right to irrigate native wetland plants planted by the applicant per direction of the Environmental Protection Agency. The applicant was ordered to restore a wetland area previously disturbed by unauthorized pond construction activities. This water right change application was not filed to change the purpose of an existing water right to wetlands for the creation of wetlands for recreational, aesthetic or fish and wildlife purposes. The purpose of the water right will remain irrigation.

Determination: No impact.

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

This project does not involve any ponds.

Determination: No 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.*

The soils in the 23 acre restoration site do not contain soils that are heavy in salts that could cause saline seep. The applicant proposes to apply irrigation water at a rate of 1.25 inches per week over a 20 week period of use. At this rate 2.08 acre-feet of water per acre will be used for the restoration project. This amount of water is consistent with the historic use on the 23 acre taken out of irrigation for the duration of the temporary change in water use. This amount of water applied to the new place of use will not degrade soil quality or alter soil stability.

Determination: No 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.*

The existing native vegetative cover was removed by the applicant during unauthorized pond construction. The applicant was mandated by the EPA to restore the site to its natural state. The

applicant will be planting a variety of native wetland sedges, grasses, shrubs and trees. The EPA has approved the planting schedule and plant species proposed by the applicant. The use of irrigation water to help seedlings become established will reduce the likelihood of noxious weeds becoming established at the project site. It is the goal of the applicant to restore the site to its natural state.

Determination: No impact.

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

There will be no source of pollutants associated with the change in water use that will alter air quality.

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.*

The site was previously disturbed during construction of several ponds. These ponds were removed by the applicant and the topography returned to its original grade. It is not known if unique archeological or historical sites were located on the applicant's property prior to construction activity associated with the previous pond construction. The use of irrigation water to propagate planted native vegetation will not cause further impact to unique archeological or historical sites on the applicant's property.

Determination: No impact.

DEMANDS ON ENVIRONMENTAL RESOURCES OF LAND, WATER, AND ENERGY - *Assess any other impacts on environmental resources of land, water and energy not already addressed.*

None identified.

Determination: No impact.

HUMAN ENVIRONMENT

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

There are no locally adopted environmental plans or goals.

Determination: No 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.*

The proposed project site is located on private property with limited public recreation opportunities. There are no nearby wilderness areas; however, the project is close to the Stark Mountain Roadless area. The proposed project will not limit the public's access to the Stark Mountain Roadless area

Determination: No impact.

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

No impacts to human health were identified.

Determination: No impact.

PRIVATE PROPERTY - *Assess whether there are any government regulatory impacts on private property rights.*

Yes ___ *No* *XX* *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?* None identified.
- (b) *Local and state tax base and tax revenues?* None identified.
- (c) *Existing land uses?* None identified.
- (d) *Quantity and distribution of employment?* None identified.
- (e) *Distribution and density of population and housing?* None identified.
- (f) *Demands for government services?* None identified.
- (g) *Industrial and commercial activity?* None identified.
- (h) *Utilities?* None identified.
- (i) *Transportation?* None identified.
- (j) *Safety?* None identified.

(k) Other appropriate social and economic circumstances? None identified.

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

Secondary Impacts None identified.

Cumulative Impacts None identified.

3. Describe any mitigation/stipulation measures: None 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: No alternative identified.

PART III. Conclusion

1. Preferred Alternative N/A

2. Comments and Responses N/A

3. Finding:

Yes___ No XX 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 PROPOSED ACTION BECAUSE NO SIGNIFICANT IMPACTS HAVE BEEN IDENTIFIED AS A RESULT OF THE PROPOSED ACTION.

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

Name: Jim Nave

Title: Water Resource Specialist

Date: 08/23/2007