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*: WILLIAM D. KUNEY
BETTY J. HENRICKSON
C/O MONTANA WATER TRUST
140 S 4TH ST UNIT 1
MISSOULA, MT 59801

2. *Type of action*: APPLICATION TO CHANGE A WATER RIGHT 76H-30042358

3. *Water source name*: LOLO CREEK

4. *Location affected by project*: LOLO CREEK FROM THE LOCATION OF THE HISTORIC POINT OF DIVERSION OF THE WATER RIGHT 76H-108799-00 IN THE NWSENE SECTION 6, T 11 N, R 20 W TO A POINT IN THE SW SECTION 35, T 12 N, R 20 W, MISSOULA COUNTY.

5. *Narrative summary of the proposed project, purpose, action to be taken, and benefits*: THIS IS AN APPLICATION TO CHANGE THE PURPOSE AND PLACE OF USE OF WATER RIGHT 76H-108799-00 FROM IRRIGATION TO INSTREAM FLOW FOR THE BENEFIT OF THE FISHERIES RESOURCE IN LOLO CREEK. THE SUBJECT WATER RIGHT HAS BEEN RESERVED FROM THE 14.4-ACRE IRRIGATED PLACE OF USE. THE SECTION OF THE CONVEYANCE DITCH FOR THIS WATER RIGHT HAS BEEN OBLITERATED. THE APPLICANT HAS IDENTIFIED THE FLOW RATE OF 0.88 CFS AND CONSUMED VOLUME OF 25 ACRE-FEET THAT IS TO REMAIN IN LOLO CREEK WITHIN THE PROTECTED REACH FOR INSTREAM USES.

   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 MCA ARE MET.

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

   STATE HISTORICAL PRESERVATION OFFICE
   MONTANA NATURAL HERITAGE PROGRAM
   MONTANA ENVIRONET WEBSITE FOR WATER QUALITY
   MONTANA FISHERIES INFORMATION SYSTEM WEBSITE

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: MINOR IMPACTS.

Area Affected: (Mile 0.0) to (River Mile 1.0) Periodic Dewatering

Area Affected: (Mile 0.0) to (River Mile 3.1) Chronic Dewatering

INFORMATION ON THE MTDFWP WEBSITE INDICATES THE AFFECTED SEGMENT OF LOLO CREEK DOES EXPERIENCE DEWATERING, EITHER PERIODIC OR CHRONIC. ALLOWING 0.88 CFS AND UP TO 25 ACRE-FEET TO REMAIN IN-STREAM FOR APPROXIMATELY 5 MILES WOULD BE EXPECTED TO LESSEN DEWATERING CONCERNS.

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 IMPACTS.

ONE OR MORE BENEFICIAL USES HAVE BEEN ASSESSED AS BEING IMPAIRED OR THREATENED. A TMDL IS REQUIRED TO ADDRESS THE FACTORS CAUSING THE IMPAIRMENT OR THREAT. (INFORMATION GATHERED FROM THE MTDEQ LINK TO THE NRIS INTERACTIVE WEBPAGE)

THIS PROPOSAL TO CHANGE AN IRRIGATION WATER RIGHT TO IN-STREAM FLOW FOR FISHERIES IS LIKELY TO HAVE A POSITIVE EFFECT ON WATER QUALITY.

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: NO IMPACTS.

IMPACTS TO GROUNDWATER RESOURCES ARE NOT EXPECTED AS A RESULT OF THIS PROPOSAL TO ENHANCE LOLO CREEK STREAM FLOWS.

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 IMPACTS.

THIS PROPOSAL IS TO ENHANCE IN-STREAM FLOW FOR FISHERIES RESOURCES. THE NET RESULT WOULD BE TO ESTABLISH A GREATER FLOW IN LOLO CREEK THAN WHEN THIS WATER RIGHT WAS BEING DIVERTED.

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 IMPACTS.

AFTER CONSULTATION WITH THE MONTANA NATURAL HERITAGE PROGRAM, THE FOLLOWING SPECIES ARE IDENTIFIED AS OCCURRING IN THE VICINITY OF THE PROPOSED PROJECT: CAREX SOPERIA (POINTED BROOM SAGE)

LYNX CANADENSIS (LYNX)

CONTOPIS COOPERI (OLIVE-SIDED FLYCATCHER)

SALVELINUS CONFLUENTUS (BULL TROUT)

OREOHELIX AMARIRADIX (BITTERROOT MOUNTAIN SNAIL

CYPRIPEDIUM PARVIFLORUM (SMALL YELLOW LADY'S SLIPPER)

THERE ARE NO EFFECTS TO THESE SPECIES THAT WOULD OCCUR FROM THE PROPOSAL.

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 IMPACTS.

THERE ARE NO WETLANDS IN THE PROJECT AREA THAT WOULD BE IMPACTED BY THE PROPOSAL.

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

Determination: NO IMPACTS.

THERE ARE NO PONDS IN THE PROJECT AREA THAT WOULD BE AFFECTED BY THIS PROPOSAL.

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 IMPACTS.

THIS PROPOSAL WOULD CHANGE AN IRRIGATION WATER RIGHT TO IN-STREAM FLOW FOR FISHERIES. THE HISTORIC PLACE OF USE WILL NO LONGER BE IRRIGATED.

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 IMPACTS.

VEGETATIVE COVER WILL CHANGE FROM IRRIGATED FIELDS. IT IS NOT KNOWN WHAT WOULD REPLACE THE IRRIGATION USES.

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 IMPACTS.

CHANGING AN IRRIGATION WATER RIGHT TO IN-STREAM FLOW WOULD NOT AFFECT AIR QUALITY.

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 SIGNIFICANT IMPACTS.

BASED ON THE PROVIDED DESCRIPTION OF THE PROPOSAL, SHPO HAS NO RECOMMENDATION FOR CONDUCTING A CULTURAL RESOURCE INVENTORY.

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 IMPACTS.

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 IMPACTS.

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 IMPACTS.

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

Determination: NO IMPACTS.

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: NO IMPACTS.

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
(b) Local and state tax base and tax revenues?	NONE
(c) Existing land uses?	NONE
(d) Quantity and distribution of employment?	NONE
(e) Distribution and density of population and housing?	NONE
(f) Demands for government services?	NONE
(g) Industrial and commercial activity?	NONE
(h) Utilities?	NONE
(i) Transportation?	NONE
(j) Safety?	NONE

(k) *Other appropriate social and economic circumstances?* NONE

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

Secondary Impacts NONE IDENTIFIED IN THIS EA.

Cumulative Impacts NONE IDENTIFIED IN THIS EA.

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:*** THERE ARE NO OTHER REASONABLE ALTERNATIVES TO THE PROPOSED PROJECT. THE NO ACTION ALTERNATIVE WOULD DISALLOW THE APPLICANT FROM TEMPORARILY CHANGING THE PURPOSE OF THE REFERENCED WATER RIGHTS FROM IRRIGATION TO IN-STREAM FLOW FOR FISHERIES.

PART III. Conclusion

1. ***Preferred Alternative*** NOT APPLICABLE

2 ***Comments and Responses***

3. ***Finding:***
Based on the significance criteria evaluated in this EA, is an EIS required?
*Yes___ No_**X**__*

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: PATRICK RYAN
Title: WATER RESOURCE SPECIALIST
Date: DECEMBER 8, 2008