

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:* Montana Fish, Wildlife and Parks
PO Box 200701
Helena, MT 59620-0701
2. *Type of action:* Application for Beneficial Water Use Permit 41S 30046538
3. *Water source name:* Burnett Creek (also known as Burnette Creek)
4. *Location of project:* Sections 15 & 22, T16N, R18E, Fergus County
5. *Narrative summary of the proposed project, purpose, action to be taken, and benefits:*

This application proposes to appropriate surface water from Burnett Creek, a tributary to Big Spring Creek approximately 6 miles north of Lewistown, Montana. The proposed purpose is fish and wildlife and the period of appropriation is year round. The volume of water requested for fish and wildlife use is 351 acre-feet (AF) annually. The Applicant proposes to protect a portion of the total capacity and the total evaporation on two existing irrigation and stock water reservoirs that have had public fishing access sites since the 1960's. Both of these reservoirs have been recently reconstructed due to dam failure. The dam for Upper Carters Pond is located in the NENWSE Section 15 T16N R18E and has a capacity of 131.4 AF. The dam for Carters Pond, also known as Lower Carters Pond, is located in the SWNWNE Section 22 T16N R18E and stores up to 170.6 AF. The benefits to the Applicant would include protecting the water in the reservoirs for fish and wildlife.

The DNRC will issue a Provisional Permit to Appropriate Water if the applicant proves the criteria in MCA 85-2-311.

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

Dept. of Environmental Quality Website – Clean Water Act Information Center
MT. National Heritage Program Website - Species of Concern
USDI Fish & Wildlife Service Website - Endangered and Threatened Species Fergus County, MT
MT State Historic Preservation Office - Archeological/Historical Sites

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 Impact

MT Fish, Wildlife & Parks (DFWP) has not identified Burnett Creek, also known as Burnette Creek, as a dewatered stream. DFWP has been stocking fish in the ponds since 1951 and say the requested appropriation of 351 AF has been available in most years as evidenced by the adequate water levels observed in the reservoirs since they began stocking the ponds. Fishing access sites were deeded and constructed at both ponds in the 1960's. Water rights currently exist on the reservoirs for irrigation and stock purposes. Livestock can access the stream or drink directly from the ponds; however, irrigation water is rarely released from the project. This project is not expected to have a significant impact on water quantity; the ponds have been maintained by DFWP and utilized by the public for approximately 50 years in their existing capacity.

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: Minor Impact

There is no assessment of Burnett(e) Creek listed in DEQ's Clean Water Act Information Center. However, this project has been in place for many years and conditions will essentially remain unchanged. Anything other than minor impacts to water quality would have likely occurred during reconstruction of the dams and would have been covered by the Applicants' 310 or 404 Permit, if required. Dam construction is now complete. The new dams could enhance downstream water quality by decreasing turbidity associated with increased sediment load from the previous dam failures.

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: Low Likelihood of Impact

The localized groundwater table has likely contributed to the base water elevations in the ponds since they were constructed. There is a low likelihood that ground water quality or supply will be altered by this project.

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: Low Likelihood of Impact

The proposed diversion works consist of two dams that have been recently repaired with engineering provided by Ducks Unlimited. The total combined capacity of the reservoirs is 302.0 AF. As stated previously, the project has been in place for many years with no substantial changes other than reconstruction of the existing dams. This project has a low likelihood of impact due to the diversion works.

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: Beneficial Impact

The USDI Fish & Wildlife Service Website - Endangered and Threatened Species Fergus County, MT lists two species as endangered, the Pallid Sturgeon and the Black-footed Ferret. The Montana National Heritage Program lists five birds as Species of Concern within T16N R18E. No plant species have been identified. This project has maintained a fishery in the past and the new dams should enhance habitat for any fish or wildlife species in or near 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: Low Likelihood of Impact

The USDI Fish & Wildlife Service Wetlands Online Mapper indicates that there are freshwater emergent wetlands adjacent to the reservoirs of interest. It is unlikely that any wetlands would be adversely impacted as a result of this project, the wetlands may have more available water to draw from due to the dam rebuild.

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

Determination: Beneficial Impact

This project should benefit fish and wildlife use by providing competent newly reconstructed dams to maintain water levels.

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: Minor Impact

The dams were reconstructed because of dam failure. Soil stability in the dams, although altered, should be enhanced due to the engineering and construction oversight provided by Ducks Unlimited.

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: Minor Impact

Ground disturbance from the reconstruction phase of this project is expected to be short term. No spread of noxious weeds would likely be associated with this project; the disturbed areas have been re-vegetated. It is the responsibility of the landowner to control noxious weeds on their property.

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

Determination: Minor Impact

As stated above, short-term impacts may result from the reconstruction phase of the project. There should be no impact to air quality as the construction activities are complete.

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

Determination: Low Likelihood of Impact

The two reservoirs have been in place for many years. Since the reconstruction was limited to rebuilding the existing dams, it is unlikely that any cultural resources would be further impacted. A cultural resource inventory is unwarranted at this time.

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 other demands have been 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: Low Likelihood of Impact

No locally adopted environmental plans or goals have been identified.

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: Beneficial Impact

Protection of the water supply used by the public for fishing should enhance recreational opportunities. There are no known adverse impacts to recreational or wilderness activities expected because of this project.

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

Determination: Minor Impact

Since its introduction to the U.S. in 1999, West Nile virus has become a potential threat in many states. In 2006, 4 in every 1000 mosquitoes captured on the Milk River near Malta, MT were infected with West Nile. Since 2005, more than 271 cases of West Nile have been documented in people in Montana. Fifty of those people have contracted encephalitis or meningitis and four people have died as a result of their infection. Mosquito habitat development has been associated with standing water containing debris and vegetation. Proper weed management and pond maintenance will help to control the conditions required for larva growth, thus making the impacts associated with the stagnant water in the ponds insignificant.

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: Low Likelihood of Impact

No known regulatory impacts on private property rights have been identified. There is a fishing access deed and easement agreement between the landowner and the DFWP.

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 – Reconstructing the dams and protecting the water for fish and wildlife use should help to ensure that these two reservoirs would be available for public use in the future.

Cumulative Impacts – No cumulative impacts have been identified, the project has been in place since the 1950's.

3. *Describe any mitigation/stipulation measures:*

No mitigation measures have been identified at this time.

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 ACTION ALTERNATIVE

This alternative would result in none of the benefits of a sustainable and protectable fish and wildlife use being realized by the Applicant for the people of Montana.

PART III. Conclusion

1. *Preferred Alternative*

The preferred alternative is the proposed alternative.

2. *Comments and Responses*

None Received

3. Finding

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:

None of the identified impacts for any of the alternative are significant as defined in ARM 36.2.524.

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

Name: Douglas D. Mann

Title: Water Resources Specialist

Date: 7/13/2010