

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: James R Bratley
31880 Friendly Valley Rd
Washburn, WI 54891
2. Type of action: Application for Beneficial Water Use Permit No. 40R-30048580
3. Water source name: Unnamed Tributary Middle Fork Eagle Creek
4. Location affected by project: NENWSW, Section 11, T35N, R50E, Daniels County
5. Narrative summary of the proposed project, purpose, action to be taken, and benefits:
This project is to construct a 4 acre-foot on-stream reservoir on an Unnamed Tributary Middle Fork Eagle Creek to develop a wetland. Water for the wetland will be supplied by spring runoff (snow melt), summer storm events and a two small undeveloped springs located upstream of the proposed reservoir. The point of diversion (dam) will be located in the NENWSW of Section 11, T35N, R50E, Daniels County. The place of use is in the NWSW of Section 11, T35N, R50E, Daniels County. The applicant is requesting 8.6 acre-feet per year for the wetland purpose, which includes evaporative losses and wetland vegetation transpiration from the reservoir. The period of use is January 1 – December 31. The applicant has entered into a Wildlife Extension Agreement with the US Fish & Wildlife Service for this project.

The DNRC shall issue a water use permit if an applicant proves the criteria in 85-2-311 MCA are met.

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

NRCS Web Soil Survey - Website
Montana Natural Heritage Program
Montana State Historic Preservation Office (SHPO)
National Wetland Inventory - 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: The unnamed tributary and the Middle Fork Eagle Creek are non-perennial sources and are not identified as a chronically or periodically dewatered streams by the Montana Department of Fish, Wildlife & Parks.

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 unnamed tributary and the Middle Fork Eagle Creek are non-perennial sources. They are not listed as water quality impaired or threatened by DEQ because they have not been assessed. The primary sources of water for the proposed reservoir are runoff from snow melt and summer storm events.

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: This surface water appropriation should have no significant impact on groundwater in the area.

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: The diversion will consist of a dam with a drop tube water control structure. The top of the structure will be set at 5 feet above the bottom of the reservoir and will serve as the primary spillway. An earthen spillway will also be constructed to an elevation of 6 feet above the reservoir bottom and serve as an emergency spillway to bypass flows from larger runoff events. While there will be some flow modifications, and impacts to channel and riparian areas with the construction of the dam, these impacts are not considered significant.

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: According to a report from the Montana Natural Heritage Program (MNHP) there are five species of special concern in the general project area. They are all identified as

Sensitive by the BLM and are all bird species. The species identified are the Baird's Sparrow, Golden Eagle, Black Tern, Bobolink, and the Long-billed Curlew. They all are found in grassland habitats with the Black Tern preferring wetland habitats. All of the five bird species are globally ranked as either G4 (apparently secure) or G5 (common, widespread & abundant), although they may be rare in parts of their range. They are all state ranked S3 (potentially at risk). The construction of the proposed wetland will not create a significant negative impact to any of the identified bird species and may create additional habitat for some of them.

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: According to the National Wetland Inventory there several small palustrine wetlands within a mile of the proposed dam location. The proposed wetland is designed to enhance the existing wetland complex within the area.

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

Determination: The construction of the proposed wetland is designed to enhance the habitat for wildlife and waterfowl. No significant negative impacts are anticipated.

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: According to the NRCS Web Soil Survey and the Daniels County Soil Survey the soils at the proposed reservoir location are Typic Ustifluvents. These are deep, well to moderately drained soils on flood plains. Runoff is slow to medium and the hazard of water erosion is moderate. This unit is subject to frequent flooding with channeling and deposition along stream banks. The use rating for this soil type indicates that it is "not limited" for the purpose of dam construction and has features that are very favorable for a pond or reservoir.

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: According to aerial photos the acres surrounding the proposed dam site are grazing land. Vegetative cover will be lost during the construction of the dam and the emergency spillway. These areas will be re-seeded to native grasses. The control of noxious weeds is the responsibility of the property owner.

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

Determination: There will be no significant impact to air quality as a result of this appropriation.

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

Determination: According to the Montana State Historic Preservation Office (SHPO), there are no previously recorded cultural sites within the project area. SHPO feels there is a low likelihood that cultural properties will be impacted and that a cultural resource inventory is unwarranted at this time. The project is located on private property and any inventory that might be conducted in the future would be at the property owner's discretion.

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 additional impacts on other environmental resources were 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: There are no known local environmental plans or goals in this 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: This project will have no significant impact on recreational or wilderness activities.

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

Determination: This project will have no significant impact on human health.

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: There are no additional government regulatory impacts on private property rights associated with this application.

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:*

Secondary Impacts: No secondary impacts have been identified.

Cumulative Impacts: No cumulative impacts have been identified.

3. *Describe any mitigation/stipulation measures:* None 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:* Under the no action alternative, the applicant would not have the benefit of the enhancing the property for recreational purposes, such as hunting and bird watching. The wetland will provide habitat for waterfowl, shorebirds and other wetland dependent wildlife.

PART III. Conclusion

1. *Preferred Alternative:* Issue a water use permit if the applicant proves the criteria in 85-2-311, MCA are met.

2 *Comments and Responses*

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: No significant impacts have been identified, therefore an EIS is not necessary.

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

Name: Denise Biggar

Title: Unit Manager

Date: August 19, 2010