EA Form R 1/2007

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:*

Gordon Murphy	**PO BOX 75** **Ovando, MT** **59854-0109**
Bignell Ranch CO	**4801 Ovando-Helmville RD** **Helmville, MT** **59843**

2. *Type of action:*
Application to Change a Water Right No. 76F-30047784
(Proposed change to Statement of Claim No. 76F-132522)

3. *Water source name:*
Spring Creek (a tributary of the North Fork of the Blackfoot River)

4. *Location affected by project:*
The location of this project is the portion of Spring Creek starting at in the SESENW, Sec 16, Twp 15N, Rge 11W. Then flowing through the: SW, Sec 16, and the W2W2, Sec 21, and the E2E2, Sec 20, (all in Twp 15N, Rge 11W, Powell County) to the confluence with the North Fork of the Blackfoot River near the town of Ovando, MT.

5. *Narrative summary of the proposed project, purpose, action to be taken, and benefits: The DNRC shall issue a change authorization if an applicant proves the criteria in 85-2-402 MCA are met.*
Application to Change a Water Right No. 76F 30047784 represents one of two change applications (76F 30047783 being the other) that have partially overlapping ownership but that each irrigate separate acreages thus requiring two separate applications. The aforementioned change applications both divert water from a tributary of the North Fork of the Blackfoot River called Spring Creek. The water is then transported in a Murphy Ditch to Doney Lake and then into a ditch that confluences with Warren Creek. Warren Creek is used as a conveyance to a series of ditches and check dam structures. These features supply the flood water to the historic places of use in the lower Warren Creek watershed. Collectively, the two applications aim to reduce irrigated acreage in order to maintain an instream flow rate of 2.2 CFS in Spring Creek below the historic point of diversion to its confluence with the North Fork of the Blackfoot River for fishery purposes.

6. *Agencies consulted during preparation of the Environmental Assessment:*
Montana Department of Natural Resources (DNRC)
Montana Natural Heritage Program (MTNHP)
Montana Department of Environmental Quality (TMDL listing 2006 303(d) (list)
Montana Department of Fish, Wildlife & Parks (DFWP) (MFISH)
USDA – NRCS – Web Soil Survey

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:
No significant adverse impact. MFISH shows Spring Creek as having a chronic dewatering problem from river mile 0 to river mile 2.5. The proposed project would not create an additional burden on the source of supply because no additional water will be diverted. In fact the proposed project would in essence help to alleviate the dewatering problem on Spring Creek by leaving more water instream late in the season.

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 adverse impact. Neither Spring Creek nor the North Fork of the Blackfoot River is listed in the Montana DEQ 303(d) list (TMDL water quality impaired list). The proposed project would not have an adverse affect to the water quality of the stream.

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 significant adverse impact to groundwater quality or 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:
No significant adverse impact. The historic means of diversion will not change, only the amount of water passing by the headgate will change. Basically Application to Change a Water Right No. 76F 30047784 represents one of two change applications (76F 30047783 being the other) that aim to maintain an instream flow rate of 2.2 CFS in Spring Creek below the historic point of diversion to its confluence with the North Fork of the Blackfoot River from July 1 to September 15 each year. This will not impact any of the following: channel impacts, flow modifications, barriers, riparian areas, dams, or well construction.

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 adverse impact. According to the MTNHP there are several species of special concern in the area. The following are species of special concern which can be found near the proposed project area: Wolverine, Canada Lynx, Fisher, Grizzly Bear, Golden Eagle, Great Blue Heron, Pileated Woodpecker, Common Loon, Bald Eagle, Long-billed Curlew, Yellowstone Cutthroat Trout, Westslope Cutthroat Trout, Bull Trout, Arctic Grayling and a Freshwater Sponge.

Of the identified species only the Westslope Cutthroat Trout and the Bull Trout have been identified in Spring Creek. As the proposed project is part of a larger suite of projects whose goal is to improve fisheries habitat, no significant adverse impacts are anticipated.

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:
This proposed project does not involve wetlands.

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

Determination:
This proposed project does not involve ponds.

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 adverse impact. This project will not cause a degradation of soil quality or alter the soil stability. This proposal aims to maintain an instream flow rate of 2.2 CFS in Spring Creek below the historic point of diversion to its confluence with the North Fork of the Blackfoot River from July 1 to

September 15 each year. This will not impact any of the following: soil quality, soil stability, or moisture content. Although there are numerous soil types in the surrounding area, this proposal only impacts the streambed of Spring Creek by keeping 2.2 CFS in the stream late in the season. The stream naturally experiences seasonal discharges well above 2.2 CFS thus no adverse erosion or degradation should occur in the streambed or to the adjacent soils.

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 adverse impact. This project should not have an impact to local vegetative cover with regard to quantity and quality. Keeping 2.2 CFS of water instream in Spring Creek late in the season should not allow for the establishment or spreading of noxious weeds.

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 adverse impact. This project should not cause a deterioration of air quality or cause adverse effects to vegetation due to increased air pollutants.

HISTORICAL AND ARCHEOLOGICAL SITES - *Assess whether there will be degradation of unique archeological or historical sites in the vicinity of the proposed project if it is on State or Federal Lands. If it is not on State or Federal Lands simply state NA-project not located on State or Federal Lands.*

Determination:
No significant adverse impact. The proposed project involves leaving 2.2 CFS instream in Spring Creek late in the season. Spring Creek has historically naturally discharged water at rates above 2.2 CFS. This proposal will not cause a degradation of unique archeological or historical sites.

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 significant adverse impact.

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 adverse impact. In fact the proposed project is part of a larger suite of projects whose goal is to improve the fisheries habitat in the North Fork of the Blackfoot River, to which Spring Creek is a tributary.

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 significant adverse impact. This project will not impact access to or the quality of recreation and wilderness activities. If anything this project should benefit the quality of the Spring Creek fishery.

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

Determination:
There will be no significant adverse impact to human health from the proposed project.

PRIVATE PROPERTY - *Assess whether there are any government regulatory impacts on private property rights.*
Yes ___ No **_X_**.

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 adverse impact.**

(b) Local and state tax base and tax revenues? **No significant adverse impact.**

(c) Existing land uses? **No significant adverse impact.**

(d) Quantity and distribution of employment? **No significant adverse impact.**

(e) Distribution and density of population and housing? **No significant adverse impact.**

(f) Demands for government services? **No significant adverse impact.**

(g) Industrial and commercial activity? **No significant adverse impact.**

(h) Utilities? **No significant adverse impact.**

(i) Transportation? **No significant adverse impact.**

(j) Safety? **No significant adverse impact.**

(k) Other appropriate social and economic circumstances? **No significant adverse impact.**

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

Secondary Impacts
There have been no secondary impacts on the physical environment and human population identified at this time.

Cumulative Impacts

There have been no cumulative impacts on the physical environment and human population identified at this time.

3. *Describe any mitigation/stipulation measures:*

No mitigation or stipulation measures have been identified or discussed at this time. The application will go through the DNRC public notice procedure, and water users concerned with the potential impacts will be given the opportunity to object to the application. The decision by the DNRC to grant or deny the application would not be made until these review processes are completed.

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 do not appear to be any reasonable alternatives to the proposed action. The no action alternative would have the applicant continue to flood irrigate the property as it has been in the past. However, a lesser instream flow amount could be allocated.

PART III. Conclusion

1. *Preferred Alternative:*

Issue the authorization as applied for by the applicant, or in some modified form considered reasonable.

2. *Comments and Responses:*

There have not been comments or responses at this time.

3. *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 environmental assessment is the appropriate level of analysis for the proposed action because no significant environmental impacts were identified.

Name of person(s) responsible for preparation of EA:
Name: **Jim Ferch**
Title: **New Appropriations Program Specialist**
Date: **12-30-2010**