

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  
34500 Cedar Creek Rd  
Huson, MT 59846
2. Type of action: Application to Change a Water Right 76M 30049647
3. Water source name: Ninemile Creek, tributary to the Clark Fork
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 for water right claim number 76M 111122. 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, restored the topography of the project site, and completed a portion of the planting. The EPA mandated restoration includes replanting the disturbed site with native vegetation which requires irrigation to become established. The Applicant previously submitted and was granted a change in place of use and point of diversion for water right 76M 210614 for Cedar Creek to irrigate the restored area, however supplemental water is needed late in the season when Cedar Creek water is no longer available. 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 5 years.

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 14 acres of hay pasture in the N2 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:**

<h3><b>PHYSICAL ENVIRONMENT</b></h3>
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#### **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.

Three miles of Ninemile Creek are considered periodically dewatered on the 2005 Montana Department of Fish, Wildlife and Parks Dewatering Concern Areas. This is not a new appropriation and no additional impacts to water quantity will be seen in Ninemile Creek from temporarily changing the place of use.

*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.

Ninemile Creek, tributary to the Clark Fork River in Missoula County, is on DEQ's 2010 303(d) and 305(b) lists as water quality impaired. The creek is listed as fully supporting recreation, agriculture, and industry uses and partially supporting aquatic life and cold water fisheries. Probable causes of impairment include low flow alterations and sediment/siltation resulting from flow alterations from water diversions, impacts from abandoned mine lands (inactive), and streambank modifications/stabilization.

The Applicant is one of multiple users of Ninemile Creek water for agricultural purposes. The water right is used in conjunction with water right 76M 210614 from Cedar Creek, a tributary to Ninemile Creek, which is currently operating under a temporary change in place of use to restore 23 acres of riparian and wetland vegetation. The Applicant currently has change application 76M 30049645 in to permanently change the point of diversion for this water right. This water right has been used on the Applicant's property since April 1, 1902. The proposed temporary change in place of use will not result in an increase in the amount of water diverted. The number of irrigated acres will increase from 14 to 23, with the Applicant limited to 280 hours of pumping time so as not to increase consumptive use from what was historically consumed. The purpose of the proposed change in place of use is to make irrigation water available for the restoration project, after which it will be returned to the historic acreage for irrigation through two Nelson Big Gun sprinklers.

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 Ninemile Creek.

*Determination:* No 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 point of diversion change 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.

Through application 76M 30049645 for change in point of diversion, the Applicant plans to install a screened 3-inch intake pipeline from the bank of Ninemile Creek into the creek. The pipe will be connected to a 5.5 hp gas powered pump located at least 10 feet from the edge of the stream to avoid disturbing the bank and riparian area. Water will be pumped through the irrigation mainline to one Nelson 150 Series Big Gun sprinkler head to provide water to the restoration area. Pump specifications indicate a pumping rate of 265 gallons per minute (gpm) which will be reduced by 9-16 feet of lift from water surface to the place of use. Since there will be no construction at the new point of diversion, 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.

In the vicinity of Section 34, Township 16 North, Range 23 West, Missoula County, the Montana Natural Heritage Program identified the following animal species of concern: Flammulated Owl, Veery, Cassin’s Finch, Westslope Cutthroat Trout, Fisher, Wolverine, Canada Lynx, and Western Pearlshell. Also identified was the vascular plant, Yerba Buena.

According to the Montana Department of Fish, Wildlife, and Parks stream survey of Ninemile Creek, Westslope Cutthroat Trout abundance is rare. Cutthroat Trout populations in Ninemile should not be impacted from diversion of water to the temporary place of use as the Applicant will not be allowed to divert any additional water above what the historic practice has been. As the new point of diversion is below the historic point of diversion, the segment between the historic and proposed points of diversion will have increased flows. Application of water to the new place of use will not result in a barrier to fish migration within the stream.

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 the DNRC in conjunction with a point of diversion change application which would allow the Applicant to use an existing water right to supplementally irrigate native wetland plants, planted under the direction of the Environmental Protection Agency. The Applicant was ordered to restore a wetland area previously disturbed by unauthorized pond construction activities. 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.*

Soils in the 23 acre restoration site do not contain heavy salts that could cause saline seep. The applicant proposes to apply irrigation water for a total of 380 hours over the total period of use which will be within the historic period of use. At this rate, 15.77 acre-feet (AF) of water will be applied to the restoration area. This amount of water is consistent with the historic use on the 14 acres 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:*

**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.*

Historically, water was conveyed to the historic place of use through a headgate to flood irrigation which allows noxious weed seeds an opportunity to spread. Through the new point of diversion, the Applicant will be applying water through a series of irrigation mainlines and sprinkler heads that are less likely to convey noxious weed seeds onto the fields.

*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.*

Applicant will be using a gas powered 5.5 hp pump located 10 feet or more from the Ninemile Creek. Although emissions from the burning of fossil fuels will be present while the pump is in use, significant impacts to air quality will not occur as a result.

*Determination:* No significant impact.

**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.*

NA – project not located on State or Federal Lands.

*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:* Amy Groen

*Title:* Water Resource Specialist

*Date:* 07/01/2011