

Montana Department of Natural Resources and Conservation
Water Resources Division
Water Rights Bureau

ENVIRONMENTAL ASSESSMENT
For Routine Actions with Limited Environmental Impact

Note: Instructions to DNRC staff for preparing this EA can be found at:
http://www.dnrc.state.mt.us/eis_ea.html

Part I. Proposed Action Description

1. *Applicant/Contact name and address:* Sass Land, LLC
1730 No. Greyrock
LaPorte, CO 80535-0076
2. *Type of action:* Application for Beneficial Use Permit (41S-30018650)
3. *Water source name:* Big Spring Creek
4. *Location affected by project:*

The point of diversion and place of use are located in downtown Lewistown, MT;
formally described as:

SW'LY 21'3 1/2" Lot 7, Block B-14, Lewistown Original Townsite
Lot 8, Block B-14, Lewistown Original Townsite
E'LY 11 1/2' Lot 9, Block B-14, Lewistown Original Townsite

All in SWNENE Section 15, T15N, R18E, Fergus County.

5. *Narrative summary of the proposed project, purpose, action to be taken, and benefits:*

The application is to appropriate surface water from Big Spring Creek where it passes under Lewistown for commercial use in a passive heating/cooling system. 60 gpm up to 96.6 acre-feet will be withdrawn via pump and circulated throughout the walls of the building before being discharged back into the creek.

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

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| MT Dept. of Environmental Quality | - Final 2004 Montana Water Quality Integrated Report |
| MT Dept. of Fish, Wildlife and Parks | - Montana Fisheries Information System |
| MT Natural Heritage Program | - Species of Concern, T/E |
| MT Dept. of Agriculture | - Weed Survey and Mapping System |
| US DOI/Fish and Wildlife Service | - National Wetlands Inventory |
| MT Historical Society | - Historical/Archeological Sites |

Part II. Environmental Review

1. Environmental Impact Checklist:

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| PHYSICAL ENVIRONMENT |
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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.

Determination: Low likelihood of impact.

Big Spring Creek is not identified as chronically or periodically dewatered by DFWP. However, MT Fish, Wildlife & Parks (DFWP) has an instream flow reservation for 53.5 cfs and a Murphy Right for 110 cfs on Big Spring Creek from Cottonwood Creek to the hatchery at Big Springs. Given that the Mill Ditch (flood control) diversion occurs upstream of the downtown area, it is highly likely that any additional consumptive use would impair DFWP's water rights in the immediate vicinity. However, the proposed use is entirely non-consumptive in nature. The water is withdrawn, circulated throughout the building, and subsequently returned to the creek at a location in close proximity to the point of diversion.

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: Low likelihood of impact – minor adverse impact

Big Spring Creek (from East Fork to the mouth) is listed on the 2004 Montana 303(d) list as a category 5 stream – impaired/threatened w/ TMDL required. This reach has been determined to fully support agriculture, industrial use, and drinking water use. It partially supports recreational swimming, aquatic life, and cold-water fishery. The probable causes for the impairment are PCB's, nutrients, siltation, habitat alterations, and riparian and fish habitat degradation. The probable sources are listed as agriculture and grazing related sources, land disposal, onsite wastewater systems, municipal point sources, habitat modification, and removal of riparian vegetation.

The project will utilize the thermal energy of the water to help stabilize the indoor environmental conditions, and the project could potentially impact water temperature. However, the estimated impact to Big Spring Creek, assuming a flow of 100 cfs, is an increase (or decrease) in temperature of 0.01 degrees (F). If a large portion of water is diverted through the Mill Ditch, then these estimates would increase, although the thermal impact is still expected to be minimal.

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.

No impacts to groundwater are anticipated as a result of 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 project consists of a pump and 2-3" pipeline attached to the existing structural supports of the building. No additional impacts are anticipated from construction and operation of 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: Low likelihood of impact - minor adverse impact.

There are no known species of concern in the project area. However, Big Spring Creek is listed as a Blue Ribbon trout stream. The project intake will include a screen to keep out debris and presumably, minimize capture of aquatic organisms.

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.

There are no known wetlands associated with this application

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

Determination: Low likelihood of impact.

There are no known ponds associated with this application

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: Low likelihood of impact.

The project area occurs beneath the City of Lewistown. While construction and installation of the intake and discharge mechanisms may cause some erosion in the short term, it is expected that the effects will be local in nature and of minimal magnitude.

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: Low likelihood of impact.

No noxious weeds are known to be present in the project area. Given the lack of sunlight available for plant growth, the threat of invasive species taking hold is unlikely.

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

Determination: Low likelihood of impact – minor impact.

The project will be powered by electricity delivered from the existing distribution system. As such, no localized impacts associated with power generation would occur.

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

Determination: Minor adverse impact.

The project is located in historic downtown Lewistown. According to the Montana Historical Society, there are a few previously recorded sites within close proximity to the project. There are also several buildings in the immediate vicinity that are included in the Montana Historical and Architectural Inventory, including the Wright Block (Judith Theatre), Bank of Fergus Co., Montana Building, Warr Building, and Montana Tavern sites. Given the relatively local nature of this project, it is unlikely that any impacts would occur beyond the structure immediately involved.

The State Historical Preservation Office's position is that any structure over fifty years of age is considered historic and potentially eligible for listing on the National Register of Historic Places. It is recommended that planned alterations to these structures be recorded and a determination of their eligibility be made.

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: Low likelihood of impact.

No additional impacts are anticipated.

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| HUMAN ENVIRONMENT |
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LOCALLY ADOPTED ENVIRONMENTAL PLANS AND GOALS - Assess whether the proposed project is inconsistent with any locally adopted environmental plans and goals.

Determination: The proposed action is consistent with land management goals and environmental plans in the 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: Low likelihood of impact.

The proposed action will not impact recreational activities in the area.

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

Determination: Low likelihood of impact.

The proposed action will have no impacts 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: Low likelihood of 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? **No**

(b) Local and state tax base and tax revenues? **No**

- (c) Existing land uses? **No**
- (d) Quantity and distribution of employment? **No**
- (e) Distribution and density of population and housing? **No**
- (f) Demands for government services? **No**
- (g) Industrial and commercial activity? **No**
- (h) Utilities? **No**
- (i) Transportation? **No**
- (j) Safety? **No**
- (k) Other appropriate social and economic circumstances? **No**

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

Secondary Impacts: No secondary impacts are anticipated.

Cumulative Impacts: No cumulative impacts are anticipated.

3. Describe any mitigation/stipulation measures: N/A

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: Deny the application.

PART III. Conclusion

1. Preferred Alternative: Action Alternative.

2. Comments and Responses

3. Finding:

Yes ___ No **X** 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:

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

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

Name: James Heffner

Title: Water Resources Specialist, Lewistown Regional Office

Date: 3/16/06