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*: Bradley J. Finn & Sheri L. Rolf
   4050 Night Hawk Road
   Billings, MT. 59106

2. *Type of action*: Application for a Water Use Permit No. 43D-30015758

3. *Water source name*: West Red Lodge Creek

4. *Location affected by action*: SE1/4 of Section 12, Township 6 North, Range 19 East, Carbon County.

5. *Narrative summary of the proposed project, purpose, action to be taken, and benefits*: Applicant is seeking a beneficial water use permit for a flow through fish pond. The requested use is to divert 100 gpm from the West Red Lodge Creek via a pipe for a continuous fill of a 2.25 acre foot pond. The pond returns this flow directly back into the source within 250 yards from the diversion. This project has been in use for over 20 years with no complaints from neighboring water users. The applicant is filing this application to meet the requirements of the law. DNRC will issue this Provisional Permit if all the criteria under MCA 85-2-311 are met.

6. *Agencies consulted during preparation of the Environmental Assessment: (include agencies with overlapping jurisdiction)*
   Montana Natural Heritage Program
   Montana Historic Preservation Office
   Montana Department of Fish Wildlife & Parks (MFWP)
   Montana Department of Environmental Quality (MDEQ)

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: Water from the source is diverted year round through the pond with the exception for icing conditions in the winter. There are no other diversions within the diversion reach of this project. The applicants does have shares of Weast Ditch irrigation water and utilizes that water for irrigation from the same diversion during the summer. This source does not appear on the DFWP's de-watered list.

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: This project will not impair the water quality of the source. The project is already constructed and landscaped, so no silt will be deposited into the creek because of this application. This source does not appear on the TMDL list.

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 proposed use is from a surface water source and should have no significant impact on groundwater quality or quantity 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: This project has been in use for approximately 20 years. Water has been diverted and project has been operated without harming downstream water users. The applicant assists with the maintenance of the diversion and ditch with the cooperation of other water users. The applicant maintains his headgate and operates his pond without significant disruption to the flow in the source and all water is returned to the source due to the naturally high water table in the immediate area. This proposed project should not have any significant impact with flow modifications, barriers, riparian areas, dams, or the channel of the stream.

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: The Montana Natural Heritage Program did not identify any species of concern.

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: The area around the pond and the open water does have benefits of a minor wetland. There are some minor characteristics found around the existing pond. This application will not have any construction associated with it other than possible maintenance, since it is already completed. There should be no significant impact to any wetlands in the area.

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: This proposed use has not degraded soil quality or cause saline seep problems in the area. It has had a positive effect.

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: There was soil disturbance during construction 20 years ago but has been reclaimed with good vegetative cover and no obnoxious weeds observed. It is expected that the landowner will continue to prevent the establishment and spread of noxious weeds in the area.

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

Determination: There should be no significant deterioration of air quality or adverse effects on vegetation. Do not expect air pollutants to increase permanently from this proposed project since the area is vegetated with no bare soil.

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

Determination: The Montana Historic Preservation Office did not identified any recorded cultural sites in the project area.

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: There should be no significant impacts on other environmental resources of land, energy, and water from this proposed use. The pond is a gravity flow system through an existing pond and has been in existence for approximately 20 years.

HUMAN ENVIRONMENT

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

Determination: This proposed use is not inconsistent with any locally adopted environmental plans and goals for Carbon County.

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: There should be no significant impacts on recreational or wilderness activities from this proposed use.

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

Determination: There should be no significant impact on human health from this proposed use.

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.

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:*** The secondary and cumulative impacts are not expected to be significant.

3. ***Describe any mitigation/stipulation measures:*** The applicant would be required to cease his diversion of water from this source if senior water rights downstream make call for water if ever necessary. The applicant does have shares in the irrigation ditch also utilized for this application's diversion.

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:*** The project is already built and no action means he would disobey the law and not obtain a surface water right. The pond would not fill totally, but would receive some water due to the high water table in the area.

PART III. Conclusion

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 adverse environmental impacts were identified. No EIS is required.

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

Name: Keith Kerbel
Title: Regional Manager
Date: March 22, 2006