

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:* **Don Hornberger
P.O. Box 253
Roberts, MT 59070**

2. *Type of action:* **Change Application No. 43D 30022399**

3. *Water source name:* **Clear Creek**

4. *Location affected by project:*

The Place of Use will stay the same at the W2 SE in Section 29, Township 5 S, Range 21 E and the NW NE in Section 32, Township 5 S, Range 21 E in Carbon County.

The proposed change will move the Point of Diversion (P.O.D.) from the SW NW SE in Section 5, Township 6 S, Range 21 E to Government Lot 8 in the NE of Section 5, Township 6 S, Range 21 E in Carbon County.

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

The intention of this change is to move the Point of Diversion for Statement of Claim 43D 102799. The Primary P.O.D. will be at the head gate of the Devries Ditch (AKA Weimer Ditch) in Government Lot # 8 in the SE SE NE of Section 5 in Township 6 S, Range 21 E. The Secondary P.O.D. will draw water through a pipe from the Devries Ditch immediately East of Clear Creek Road in the NE NW NE of Section 32 in Township 5 S, Range 21 E.

The original water right lists the Crocket Ditch as the means of delivery. This change will allow water to be diverted from the Devries Ditch and applied directly to the field with more control and efficiency. It will reduce the length of ditch the water is diverted through, and leave the water in Clear Creek for an extra three miles. The application is not requesting a change in the place of use, the purpose of use or a change in the volume or flow of the original water right.

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)

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: Clear Creek is not listed as Chronically or Periodically Dewatered by the DFWP. The applicant is not proposing to increase the amount of water to be used under the existing water right. The proposed change will not create a dewatering problem.

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: Clear Creek is not listed as water quality impaired or threatened by the DEQ. The proposed change will not affect water quality in this area.

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: The proposed change should have no significant impact on ground water 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: The head gate to Devries Ditch is well established, and the ditch is in active use. Therefore the addition of 266.9 GPM through the headgate and ditch is not expected to have any significant impact on the Clear Creek channel or flow. There is not expected to be any impacts on riparian areas, dams or well construction as a result of this change.

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 threatened, endangered or species of concern in the project area.

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: There are no wetlands that will be affected by this change.

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

Determination: There are no ponds involved in this change.

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 Carbon County Soil Survey this area is not heavy in salts that could cause saline seep. Because the land has been historically irrigated there is not expected to be a degradation of soil quality or soil stability because of this change.

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: The installation of the secondary diversion should have little impact on existing vegetation. The applicant is reasonably expected as a land owner, to control the spread and establishment of noxious weeds on his property.

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

Determination: The proposed change will have no significant impact on air quality.

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 identify any archeological or historic sites of record in the proposed project area. The proposed change of water is not expected to have any significant impact on any historical or archeological sites in the 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.

HUMAN ENVIRONMENT

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

Determination: The proposed change is not inconsistent with the 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.

Determination: No significant 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 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: One secondary impact may be the probable dispute about this change between the applicant and a vocal neighbor. Before the application was released for public notice an up stream neighbor that shares the Devries Ditch expressed an intention to object to the change application. The resulting tension within the Roberts community is an expected secondary impact of this change.

Cumulative Impacts: As more development takes place in this area, there will be ever increasing demand on water for domestic, agriculture, and other uses. The increased pressure on water resources will create friction between neighbors and the community. A proactive, sustainable approach to water resource management is necessary to mitigate future and current water demands.

3. *Describe any mitigation/stipulation measures:* **The applicant is aware that he would be required to cease using water if this use is adversely impacting the rights of users with earlier priority dates.**

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 only alternative though impractical, would be to re-establish the Crocket Ditch**

to delivery this water. Because of development in this area this alternative would be far more difficult than the proposed change.

The no action alternative would simply prevent the applicant from using this 1894 Statement of Claim to irrigate these 15.7 acres.

PART III. Conclusion

1. ***Preferred Alternative: Because of the condition of the Crockett Ditch and the close proximity of the Devries Ditch to the place of use of the existing water right, the preferred alternative would be to allow the applicant to change the point of diversion.***
2. ***Comments and Responses: None to report***
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 environmental impacts were identified. **No EIS is required.**

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

Name: Tim Lewis

Title: Water Conservation Specialist

Date: May, 30, 2006