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: Dan & Danielle Bartel
PO Box 1181
Lewistown, MT 59457

2. Type of action: Application for Beneficial Water Use Permit 30026260-41S

3. Water source name: Yogo Creek

4. Location affected by project: The point of diversion is located in the NW SE NW, Section 4, T13N, R10E, Judith Basin County and is transitory for 1300 feet downstream.

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

This permit application is for a sluice mining operation (Little Johnny Placer Claim) on Yogo Creek in Judith Basin County. The applicant has requested to divert 30 gallons per minute (GPM) up to 0.93 acre-feet (AF) from June 1 through September 7 inclusive of each year. The most upstream point of diversion and place of use is located in the NW SE NW, Section 4, T13N, R10E, Judith Basin County. The point of diversion is transitory and can be moved downstream along Yogo Creek for 1300 feet throughout the length of the Little Johnny Placer Claim. A gasoline powered portable pump will be used to divert water from the creek to the sluice which will be located in an existing trench that lies approximately 60 feet distant from the streambed. This use of water can be considered largely non-consumptive, with the exception of a small evaporative loss component associated with the water standing in the sluice trench prior to seepage and infiltration back to the stream.

The benefits to the applicant would include financial profits associated with gold mining and related recreational enjoyment.

The DNRC shall issue a water use permit if an applicant proves the criteria in 85-2-311 MCA are met.

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

Dept. of Environmental Quality Website - TMDL 303d listing

MT. National Heritage Program Website - Species of Concern
USDI Fish & Wildlife Service Website - Endangered and Threatened Species Fergus County, MT
MT State Historic Preservation Office - Archeological/Historical Sites
USDA Natural Resources Conservation Service – Web Soil Survey
USDI Fish & Wildlife Service – Wetlands Online Mapper

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: Low likelihood of impact.

The MT Department of Fish, Wildlife and Parks does not identify Yogo Creek as chronically or periodically dewatered. This source is protected by a MT FWP Instream Flow Reservation of 3 CFS throughout the entire year. The applicant physically measured flows on Yogo Creek in two locations. On 8/27/2005 they measured flows above and below the confluence of Yogo Creek and Setter Creek getting 13.79 CFS and 14.89 CFS respectively. Due to the purpose being largely non-consumptive; there is a low likelihood of impact to the source.

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.

Yogo Creek is not listed on the 2006 Montana Water Quality Integrated Report. It is unlikely that the chiefly non-consumptive use of this source from June 1 through September 7 would significantly impact water quality. Water quality will be protected as outlined in the USFS Decision Memo (MTMMC211038). The gasoline powered pump will be placed in a rubber tub to prevent contamination to the water and soil.

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.

Impacts to groundwater are expected to be minimal. Applicant utilized trace dye tablets to show that groundwater seeping from the sluice trench will return to Yogo Creek in approximately 24 hours.

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.

Applicant is requesting to use a 4 HP gas powered portable pump to divert water from Yogo Creek to the trench where the sluice will be operated. Diversion can take place all along the Little Johnny Placer Claim which is roughly 1300 feet in length.

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.

The Montana National Heritage Program lists 5 species as Species of Concern within Township 13 North Range 10 East. The common names for these species are the Westslope Cutthroat Trout (fish), the Dwarf Shrew (mammal), the Short-styled Columbine, the Long-styled Thistle, and the Northern Rattlesnake-plantain (vascular plants). The website for USDI Fish & Wildlife Service Endangered, Threatened, Proposed, and Candidate Species lists the Canada Lynx and the Bald Eagle as Threatened in Judith Basin County. There is a low likelihood that this project will adversely impact any of these species as the water use is essentially non-consumptive and would be returned to the creek in short order.

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. The USDI Fish & Wildlife Service – Wetlands Online Mapper has no data available for the project location.

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

Determination: Low likelihood of impact.

The project does not involve nor impact any ponds. The sluice trench will not be considered as storage due to the relatively quick return of water to Yogo Creek.

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 USDA Natural Resources Conservation Service Web Soil Survey has no data available for soils in this area. Applicant states that the sluice trench water is returned to the creek through alluvial sand & gravels. The project requires a minimal diversion rate and is basically non-consumptive; it's unlikely that any unnatural degradation of soil characteristics would occur.

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 impacts to vegetation or spread of noxious weeds would likely be associated with this application. Normal weed management practices could be used to control noxious weeds transferred by the pump system from the creek to the sluice trench area. It is typically the responsibility of the property owner to control noxious weeds on their property.

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.

It is unlikely air quality would be significantly impacted; this project will utilize a small 4 HP gas engine.

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

Determination: Low likelihood of impact.

The State Historic Preservation Office was contacted and determined that there is a low likelihood cultural properties will be impacted; a cultural resource inventory is unwarranted at this time.

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.

HUMAN ENVIRONMENT

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

Determination: Low likelihood of impact.

The proposed action is consistent with historic mining practices in the area and as stated in the USFS Decision Memo conforms to the goal of maintaining and protecting forest resources.

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 significantly impact recreational activities in the area.

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

Determination: Low likelihood of impact.

No impacts to human health have been identified.

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 known impacts.

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

(b) *Local and state tax base and tax revenues?* None

(c) *Existing land uses?* None

(d) *Quantity and distribution of employment?* None

(e) *Distribution and density of population and housing?* None

(f) *Demands for government services?* None

(g) Industrial and commercial activity? None

(h) Utilities? None

(i) Transportation? None

(j) Safety? None

(k) Other appropriate social and economic circumstances? None

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:*

No mitigation/stipulation measures have been 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 action alternative: Deny the application. This alternative would result in none of the related recreational or economic benefits being realized by the applicant.

PART III. Conclusion

1. Preferred Alternative

The preferred alternative is the proposed alternative.

2 Comments and Responses

None Received.

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:

None of the identified impacts for any of the alternatives are significant as defined in ARM 36.2.524.

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

Name: Douglas Mann
Title: Water Resources Specialist - LRO
Date: 7/17/2007