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: FCM LLP
PO Box 811
Helena, MT 59624

2. Type of action: Application to Change a Water Right # 41QJ 30042730

3. Water source name: Missouri River

4. Location affected by project: The project proposes to cease irrigation of claimed acres and protect instream flows in Sections 9, 16 & 17 T17N R1W, Cascade County

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

The application proposes to change the point of diversion, place of use, and purpose of use of two existing water rights from irrigation to instream flow fishery purposes. The source and general location is the Missouri River near Cascade, Montana. The proposed amount of water to be left instream for Statement of Claim No. 41QJ 209518 is 6.85 cubic feet per second (cfs) up to 90.9 acre-feet (af). The proposed amount of water to be left instream for Statement of Claim No. 41QJ 209520 is 6.1 cfs up to 31.9 af. The volume of water to be changed is asserted by the Applicant as that amount historically consumed. The application materials state that the reasons for the change are to preserve the existing water rights and protect them from abandonment, and supplement the flow in an important fishery resource.

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

Dept. of Environmental Quality Website – Clean Water Act Information Center
MT. National Heritage Program Website - Species of Concern
USDI Fish & Wildlife Service Website - Endangered and Threatened Species
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 Missouri River is not listed as a chronically or periodically dewatered stream by DFWP. This project will temporarily discontinue irrigation for ten years on acreage associated to two existing water rights. It is unknown as to the immediate effect the proposed change would have on water quantity as the last time water was diverted to the claimed acres is somewhat unclear. Since water has not been used from a short-term perspective, the proposed project will have no net effects on surface water quantity, quality or distribution. However, in consideration of historic practices, this project could provide a minor benefit to flows in the Missouri River by ceasing to divert water that was historically used for irrigation. Regardless, there is a low likelihood of negative impacts to water quantity due to this proposed change.

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.

The DEQ website indicates the Missouri River from Sheep Creek to the Sun River has impairments to Aquatic Life and Cold Water Fishery; probably caused from sedimentation and siltation. This project proposes to cease diversion of water from the Missouri and although increased flows can generally contribute to increased sedimentation/siltation, the proposed flows to be changed are insignificant when compared to the larger flows in the Missouri River. There is a low likelihood that water quality will be adversely affected as a result of this project.

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.

Localized ground water elevations on the applicants' property will not see the seasonal contributions from historic irrigation, however due to the projects close proximity and hydraulic connection to the Missouri River, there is a low likelihood of impact to 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: No impact.

The proposed change is to convert two irrigation water rights to instream flows to benefit the fishery. No diversion or conveyance facilities are necessary to cease diversion.

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 five species as Species of Concern within Township 17 North Range 1 West. The common names for these species include Gray Wolf, Wolverine, Burrowing Owl, Bald Eagle and Square-stem Monkeyflower. The USDI Fish & Wildlife Service information shows that Cascade County has one species listed as threatened; the Bald Eagle. No impacts to any of these species are expected as the project proposes to simply cease diversion of irrigation water.

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 impacts to wetlands expected with this project.

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

Determination: Low likelihood of impact.

This project does not involve a pond. No impact to wildlife, waterfowl, or fisheries is anticipated.

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.

Because this project proposes to simply stop historical irrigation, there is a low likelihood of adverse impact to soil quality, stability, or moisture content.

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.

Since there will be no disturbed areas due to construction activities; no spread of noxious weeds should be associated with this application. It is 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.

No impacts to air quality or adverse effects to vegetation are expected as a result of this proposal.

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.

This project intends to merely leave historic irrigation water instream; there is a low likelihood of impact to archeological or historical sites. 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.

No locally adopted environmental plans or goals have been identified.

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 should not negatively 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?* **There may be a slight decrease in local and state tax revenues as a result of the retirement of the irrigated acres but impacts should be minimal.**

(c) Existing land uses? **No significant impact by discontinuing irrigation.**

(*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 have been identified.

Cumulative Impacts – Additional small instream flow projects like this proposal may cumulatively enhance the fishery, even though this individual project may contribute an insignificant flow when compared to the large flow associated with the Missouri River.

3. ***Describe any mitigation/stipulation measures:***

No mitigation measures have been identified at this time.

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 no change to the existing water rights for irrigation.

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: 6/9/2009