

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: **Town of Neihart  
PO Box 36  
Neihart, MT 59465**
2. Type of action: **Application to Change a Water Right 41Q 30052319**
3. Water source name: **Shorty Creek, Tributary to O'Brien Creek**
4. Location affected by project: **Section 5 T13N R8E and Sections 32 & 33 T14N R8E  
(Cascade County)**
5. Narrative summary of the proposed project, purpose, action to be taken, and benefits:

**Applicant proposes to change Statement of Claim No. 41Q 200353 by adding a point of diversion (POD or diversion) to Shorty Creek (the existing POD is located on O'Brien Creek). Shorty Creek will be added as a source of water as well, with the additional diversion located in the SENESW Section 5 T13N R8E. The new method of diversion will be by pipeline/infiltration gallery, located approximately 75 feet upgradient of Applicant's existing regulating reservoir. The maximum proposed flow rate from either source is 234 gallons per minute (GPM) up to 79.0 acre-feet (AF) annually.**

**The project will likely result in better water quality for the Town of Neihart during times of increased turbidity in O'Brien Creek. This will also allow for reduced treatment requirements from a cleaner source and less maintenance at the towns' treatment facility.**

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  
MT State Historic Preservation Office - Archeological/Historical Sites  
USDA Natural Resources Conservation Service – Web Soil Survey  
USDI Fish & Wildlife Service – Wetlands Online Mapper  
Montana Fish, Wildlife & Parks – MFISH Website**

## **Part II. Environmental Review**

### **1. Environmental Impact Checklist:**

<b>PHYSICAL ENVIRONMENT</b>
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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:*           **No Significant Impact**

The source of interest in this application, Shorty Creek, is a Tributary to O'Brien Creek and neither Shorty nor O'Brien Creek is listed as a dewatered concern by MT DFWP. Proposed water use for the Town of Neihart, if the change is authorized, will be the same or less than historic amounts. The year-round population of Neihart has gradually decreased over time, which generally means less water is required from the source of supply. Census data indicates Neihart's population was 833 people around the turn of the century (1900), while the most recent census in 2010 shows 51 residents. No adverse impacts to water quantity are expected.

**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:*           **Beneficial Impact**

The proposed Shorty Creek POD will be used to improve water quality for the Town of Neihart during times of increased turbidity in O'Brien Creek and should have positive impacts to water quality. The increased turbidity typically takes place during spring runoff, diversion from Shorty Creek would allow better quality water diverted to the treatment plant and in turn less intensive treatment and maintenance at the plant. The United States Environmental Protection Agency (Region 8) and the Montana Department of Environmental Quality have both approved Neiharts' new diversion as a potential remedy related to a turbidity violation in May, 2008.

**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:*           **No Significant Impact**

There should be no significant impact to groundwater quality or supply. Water is diverted from either Shorty or O'Brien Creeks to the treatment plant and is conveyed to residents via the community's municipal water system.

**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 Significant Impact**

The diversion structure on Shorty Creek will be located 75 feet upstream of its confluence with O'Brien Creek and the regulating reservoir. Preliminary design plans for the additional diversion consist of three 4-inch collection pipes placed in a gravel infiltration gallery. The infiltration gallery will be covered by a gabion mattress to prevent erosion around the structure. The structure will be manifolded to a 8-inch line which is gravity fed to the water treatment plant. The flow rate capacity to the treatment plant will be 234 GPM regardless if water is diverted from Shorty Creek or O'Brien Creek (regulating reservoir). Neihart's Key-Tech ACF-100 treatment plant was constructed in 1996 and has a 40,000-gallon clear well used to store treated water for community needs during periods of peak demand. Water is conveyed via gravity from the clear well in 8-inch PVC pipe to a pressure-reducing vault and in turn, the municipal distribution system. No significant impacts are anticipated because of the proposed 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:*           **No Significant Impact**

The Montana National Heritage Program lists one mammal, five birds and one fish species as Animal Species of Concern within Township 14 North Range 8 East and Township 13 North Range 8 East. There are also three bird species listed as Potential Species of Concern. Three Plant Species of Concern and one Potential Plant Species of Concern are also listed in the area of interest. The USDI Fish & Wildlife Service Website shows that Cascade County has three species listed as proposed species or candidates for the Endangered Species Act; the proposed species is the Wolverine, while the candidate species are the Sprague's Pipit and the Whitebark Pine. Construction of the new POD will likely be required to follow 310 permitting requirements regulated by the Cascade County Conservation District, which would include provisions to accommodate fish passage. This project is not expected to significantly affect any species listed above.

***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:*           **No Significant Impact**

The National Wetlands Inventory shows a small area of Freshwater Emergent type wetland upgradient from the regulating reservoir and a small Freshwater Pond located near the

**Town of Neihart adjacent to Belt Creek. No major impacts to the wetland resource are expected as a result of the addition of a POD on Shorty Creek.**

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

*Determination:*           **No Significant Impact**

**The project may divert water directly from Shorty Creek to the treatment plant, which would allow O'Brien Creek water to remain in the natural stream channel and regulating reservoir without diversion. This may cyclically fluctuate water levels in the small reservoir more than in the past, however the amount of water diverted for Neihart municipal needs will remain the same or less than historic use.**

**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:*           **No Significant Impact**

**This project will simply add a POD from Shorty Creek to the town's treatment plant and as such, no degradation to soil quality, stability, moisture content or salinity will 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:*           **No Significant Impact**

**Other than the construction of the diversion works on Shorty Creek, no new disturbance of vegetative cover is expected. 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:*           **No Significant Impact**

**No impacts to air quality have been identified. The proposed system will convey water via gravity flow to the treatment plant, which will operate in the same manner as before.**

**HISTORICAL AND ARCHEOLOGICAL SITES** - *Assess whether there will be degradation of unique archeological or historical sites in the vicinity of the proposed project if it is on State or Federal Lands. If it is not on State or Federal Lands simply state NA-project not located on State or Federal Lands.*

*Determination:*           **No Significant Impact**

**Not Applicable – Project not located on State or Federal Lands**

**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:*           **No Significant Impact**

**No significant impacts are anticipated. There will be no increase for the proposed use when compared to historic use.**

<b>HUMAN ENVIRONMENT</b>
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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:*           **No Significant Impact**

**No local 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:*           **No Significant Impact**

**The proposed action should not negatively affect recreational activities in the area.**

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

*Determination:*           **Beneficial Impact**

**No impacts to human health have been identified. The project may improve water quality for Neihart's municipal needs.**

**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? **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:

**As mentioned above, better quality water diverted to the treatment plant will allow for less intensive treatment and reduced maintenance at the plant. Diversion from O'Brien Creek has been plagued with turbidity issues in the past and higher quality water from the new source should help remedy those problems.**

Cumulative Impacts:

**No Cumulative Impacts have been identified.**

3. *Describe any mitigation/stipulation measures:*

**The Department may or may not deem specific conditions necessary to meet the statutory criteria for changes of water right set forth at § 85-2-402, MCA. These conditions would be required in the Departments' preliminary determination, if applicable.**

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 change application. This alternative would result in no change to the existing water right for Neihart's municipal needs.**

*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**

*Date:* **3/27/2013**