

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: CR126 Water Depot, LLC  
626 South Ferguson Ave. Suite 1  
Bozeman, MT 59718
2. Type of action: Application for Beneficial Water Use Permit No. 42M 30066963
3. Water source name: Groundwater
4. Location affected by project: Lot 4a of the Amended Plat of Tract 1a and Tracts 2-4 of Erickson Minor Subdivision, NWNE Section 29, T23N, R59E, Richland County
5. Narrative summary of the proposed project, purpose, action to be taken, and benefits:

The proposed project is a water depot located on County Road 126 approximately 1 mile north of Sidney, MT. The POD and POU are located in lot 4a of the Amended Plat of Tract 1a and Tracts 2-4 of Erickson Minor Subdivision, NWNE Section 29, T23N, R59E, Richland County. The applicant proposes to divert groundwater year-round at a rate of 200 GPM up to 322 AF annually to be marketed for oil field production and development.

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:
  - US Fish & Wildlife Service
  - Montana Natural Heritage Program
  - Montana Department of Fish, Wildlife, & Parks
  - Montana Department of Environmental Quality
  - USDA Web Soil Survey
  - National Wetlands Inventory

**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:* The reach of the Yellowstone River in which prestream capture will occur is not identified as a chronically or periodically dewatered stream by the Montana Department of Fish, Wildlife, & Parks (DFWP). The DFWP has a water reservation on this portion of the Yellowstone River to maintain instream flows that varies depending on the time of year. The following table provides the instream flows by month.

Section: N.D. BORDER to TONGUE R			
Type: Water Reservation Granted			
River Miles: 15.3 to 183			
Begin Date	End Date	Flow (CFS)	Priority Date
1-Jan	31-Jan	3738	12/15/1978
1-Feb	31-Feb	4327	12/15/1978
1-Mar	31-Mar	6778	12/15/1978
1-Apr	31-Apr	6808	12/15/1978
1-May	31-May	11964	12/15/1978
1-Jun	31-Jun	25140	12/15/1978
1-Jul	31-Jul	10526	12/15/1978
1-Aug	31-Aug	2670	12/15/1978
1-Sep	31-Sep	3276	12/15/1978
1-Oct	31-Oct	6008	12/15/1978
1-Nov	31-Nov	5848	12/15/1978
1-Dec	31-Dec	3998	12/15/1978

**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:* The Yellowstone River is listed on the TMDL 303(d) list as partially supporting aquatic life. The impairment to aquatic life is likely due to a combination of factors that include bank vegetation alteration, hydrostructure flow modification, and heavy metals. Issuance of the requested appropriation is unlikely to have any significant impact on water quality.

**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:* Modeling analysis by DNRC hydrologists shows that there is groundwater physically and legally available for appropriation at the point of diversion requested by the Applicant. The proposed appropriation will not significantly impact the ground water quality or

supply. The groundwater aquifer indicated in this application has been shown to be hydraulically connected to the Yellowstone River. It has been determined by DNRC hydrologists that there will be an annual net depletion of 322 AF at an average rate of 200 GPM on the Yellowstone River due to prestream capture.

**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 groundwater diversion should have no significant impact on stream channels, flow modifications, barriers, riparian areas, dams, or well construction.

**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:* Fifteen animal species were listed as “species of special concern” within the project area.

Townsend's Big-eared Bat	Blue Sucker	Paddlefish
Black Tailed Prairie Dog	Iowa Darter	Sauger
Hoary Bat	Shortnose Gar	Pallid Sturgeon
Whooping Crane	Sturgeon Chub	Two species of sand-dwelling mayfly
Spiny Softshell turtle	Sicklefin Chub	

Of this list, two animals (whooping crane, pallid sturgeon) that are listed as “endangered” by the US Fish & Wildlife Service are known to inhabit the area; however due to the proposed project being within the development boundaries of the sprawling town of Sidney, it is unlikely that there would be any significant impact to the Whooping Crane. As surface water diversion from the Yellowstone River will occur as prestream capture, it is also unlikely that there would be any significant impact to the Pallid Sturgeon or any of the identified species of special concern. One plant “species of special concern” was identified; the Pale-spiked Lobelia, which is found in moist meadows. The project area has already been developed and disturbed and is no longer native vegetation. No plant species were identified as “threatened” or “endangered” and no significant impact to any plants has been identified.

**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 identified within the project area.

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

*Determination:* There are no ponds identified within the project 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:* There will be no significant degradation or alteration of the soils.

**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 proposed project may impact existing vegetative cover; however the project area has been developed prior to this project and is no longer native vegetation. Management of noxious weeds will be the responsibility of the Applicant.

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

*Determination:* There will be no significant deterioration of air quality associated with this project.

**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:* 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 other potential impacts have been identified.

<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 known environmental plans or goals will be impacted by this project.

**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 access or recreational activities will be significantly impacted by this project.

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

*Determination:* The proposed project will have no significant impact on human health.

**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 impacts identified
- (b) Local and state tax base and tax revenues? No significant impacts identified
- (c) Existing land uses? No significant impacts identified
- (d) Quantity and distribution of employment? No significant impacts identified
- (e) Distribution and density of population and housing? No significant impacts identified
- (f) Demands for government services? No significant impacts identified
- (g) Industrial and commercial activity? No significant impacts identified
- (h) Utilities? No significant impacts identified
- (i) Transportation? No significant impacts identified
- (j) Safety? No significant impacts identified
- (k) Other appropriate social and economic circumstances? No significant impacts identified

**2. *Secondary and cumulative impacts on the physical environment and human population:***

Secondary Impacts No significant impacts identified

Cumulative Impacts Cumulative Impacts of pending or recently permitted rights impacting the Yellowstone River have been examined. The area of examination includes the Lower Yellowstone River from Glendive down to where the river enters North Dakota. The following table shows pending or recently permitted rights and the expected depletion (AF) to surface water on the Yellowstone River.

WR Number	Name	GW or SW	Annual Depletion (AF)
30062767	Montana H2O	GW	585
30064201	Ames/Bell	SW	645
30064191	Thiel	GW	23.2
30064941	Wick	GW	50
30065439	Exploration Drilling	GW	617.2
30066962	Bradley	GW	272
30066963	CR 126 Water	GW	322
30066965	Yellowstone Water	SW	1157
		<b>Total Depletion</b>	3671.4

Based on an annual depletion of 3,671.4 AF, the average depletion from the Yellowstone River for pending or unperfected permits is 5.07 CFS. Since physical and legal availability of surface water can be shown for the Yellowstone River during all months of the year in excess of the combined depletion of 5.07 CFS for pending and unperfected permits, the Department finds the cumulative impacts of pending or unperfected permits will have no significant impact on the water of the Yellowstone River.

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

Not 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:**

The only realistic alternative would be the no action alternative.

**PART III. Conclusion**

**1. Preferred Alternative**

Issue a beneficial water use permit if the applicant proves the criteria in 85.2.302, MCA are met.

**2. 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 impacts related to the proposed project have been identified.

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

Name: Nathaniel T. Ward

Title: Water Resource Specialist

Date: October 16, 2013