

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: Marks Ranch Enterprises Co.
Represented by: Rachel Kinkie
Bloomquist Law Firm P.C.
PO Box 799
Helena, MT 59624
2. Type of action: Application to Change a Water Right 41I 30070581
(Statement of Claim No. 41I 30069586)
3. Water source name: Prickly Pear Creek
4. Location affected by project: The project proposes to retire 473 animal units (AU) of stock watering from Prickly Pear Creek in the SE of Section 4, Township (T) 9 North (N), Range (R) 3 West (W), Jefferson County, in order to mitigate surface water depletions associated with pumping of the Red Cliff Estates Subdivision wells in NENENW of Section 9, T8N, R3W.
5. Narrative summary of the proposed project, purpose, action to be taken, and benefits: The applicant seeks to change the place of use, point of diversion and purpose of a portion of their Statement of Claim No. 41I 30069586. The consumptive volume associated with 473 AU historically watering from Prickly Pear Creek would change to the purpose of mitigation in Prickly Pear Creek. A flow rate of 3.12 gallons per minute (GPM) up to 2.92 acre-feet (AF) would be left in Prickly Pear Creek, from October 15 to May 15, as mitigation for potential depletions to surface water caused by pumping the Red Cliff Estates public water supply wells. The new proposed place of use and point of diversion is described as the SE of Section 4, T8N, R3W.

The DNRC shall issue a change authorization if an applicant proves the criteria in 85-2-402, MCA are met.

6. Agencies consulted during preparation of the Environmental Assessment:
(include agencies with overlapping jurisdiction)
 - Montana Department of Natural Resources (DNRC), Water Management Bureau- Attila Fohnagy and Russell Levens, Groundwater Hydrologists
 - Montana Natural Heritage Program (MTNHP)
 - Montana Department of Fish, Wildlife & Parks (DFWP)
 - USDA Web Soil Survey

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: No adverse impact. Prickly Pear Creek is not identified by the Department of Fish, Wildlife and Parks as chronically dewatered stream in the area of the proposed project. The proposed change is to leave water instream to mitigate potential surface water depletions caused by the pumping of the Red Cliff Estate public water supply wells and will not adversely impact Prickly Pear Creek.

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: No significant adverse impact. The Montana Department of Environmental Quality 303(d) list for 2014 identifies several causes for water quality impairments for Prickly Pear Creek further downstream. However, the proposed project is to leave 3.12 GPM up to 2.92 AF instream for mitigation and will not likely contribute to the existing impairments.

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 adverse impact. The proposed project is to retire 473 AU of stock watering from Prickly Pear and leave water instream to mitigate possible surface water depletions caused by pumping the Red Cliff Estates public water supply wells and will not affect groundwater.

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 use is to leave water instream for mitigation purposes and no diversion will take place.

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 adverse impact. The Montana National Heritage Program did not identify any animal species or plant species of concern in the proposed project area. Since the proposed change is to leave water instream for mitigation and no species of concern were identified, there will be no adverse impact.

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: The proposed project does not involve wetlands.

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

Determination: The proposed project does not involve ponds.

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 adverse impact. The proposed project is to reduce the number of stock watering from Prickly Pear Creek; the area will continue to be used for watering 117 AU. There will not be a negative change in the soil stability and moisture.

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. The place of use where the retired stock watered will continue to be used for stock watering, only 473 AU less, so there should be no change in the existing vegetation cover.

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. There will be 473 less stock AU watering in the project area with proposed 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: N/A, the project is 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 additional impacts on environmental resources of land, water and energy were identified.

HUMAN ENVIRONMENT

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

Determination: No significant adverse impact.

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 adverse impact.

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

Determination: No significant adverse impact.

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: The project does not impact government regulations on private property.

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 impacts identified.
- (b) Local and state tax base and tax revenues? No impacts identified.
- (c) Existing land uses? The area will continue to be used for stock watering (117 AU); the proposed change will only reduce the number of stock watering by 473 AU.
- (d) Quantity and distribution of employment? No impacts identified.
- (e) Distribution and density of population and housing? No impacts identified.
- (f) Demands for government services? No impacts identified.
- (g) Industrial and commercial activity? No impacts identified.
- (h) Utilities? No impacts identified.
- (i) Transportation? No impacts identified.

(j) Safety? No impacts identified.

(k) Other appropriate social and economic circumstances? No impacts identified.

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

Secondary Impacts No secondary impacts have been identified.

Cumulative Impacts No cumulative impacts have been identified.

3. **Describe any mitigation/stipulation measures:** The proposed project leaves water instream to mitigate potential surface water depletions caused by the pumping of the Red Cliff Estates public water supply wells.

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 reasonable alternatives have been identified. No human/environmental impacts exist as a result of the proposed project to retire 473 AU from watering directly from Prickly Pear Creek to leave water instream in order to mitigate potential surface water depletion caused by the pumping of the Red Cliff Estates public water supply wells. The no action alternative would result in the denial of the Beneficial Water Use Permit application for the Red Cliff Estates public water supply wells and non compliance with the Montana Water Use Act.

PART III. Conclusion

1. **Preferred Alternative:** No significant impacts exist that would require an alternative action.

2. **Comments and Responses:** None at this time.

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: An EA is the appropriate level of analysis for this action. There are no significant impacts identified as defined in ARM 36.254, therefore an EIS is not required.

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

Name: Jennifer Daly

Title: Water Resource Specialist

Date: October 7, 2015