

## ENVIRONMENTAL ASSESSMENT

<b>PROPONENT:</b>	Tungsten Holdings	<b>SITE NAME:</b>	Portal 160 Site
<b>LOCATION:</b>	W2 SE4 Section 34, T33N, R26W	<b>COUNTY:</b>	Lincoln
		<b>DATE:</b>	January 11, 2010

### TYPE AND PURPOSE OF ACTION:

The applicant proposes to mine and haul 10,000 cubic yards of sand and gravel from a site on private land in the Kootenai National Forest, approximately 11 miles southwest of Dickey Lake. The site is currently a forested area at an elevation of approximately 3920 feet (see [FIGURE 1 – SITE MAP](#)). The site is located in mountainous terrain, well above Fortine Creek. Mining would begin at the lowest elevation on the west side of the permit and progress to the east into higher elevations, leaving the pit floor relatively level except with a slight grade toward the center to prevent any muddy runoff from leaving the site. The applicant would reclaim the site with slopes no steeper than 3:1, re-soiled and seeded to grass for future homesites. A performance bond has been posted to ensure that final reclamation is completed. The Lincoln County zoning office has signed a DEQ form stating that the site and proposed mining complies with the zoning in effect. Hours of operation proposed are from 8:00 a.m. to 8:00 p.m., Monday through Saturday for crushing, and 8:00 a.m. to 6:00 p.m., Monday through Friday for hauling and road construction. Final reclamation would occur before December 2018.

This environmental assessment (EA) is required under the **Montana Environmental Policy Act (MEPA)**. An EA functions to identify, disclose and analyze the impacts of an action, in this case operating a gravel pit on which the state must make a decision, so that an informed decision can be made. MEPA sets no environmental standards, even though it requires analysis of both the natural and human environment. This document may disclose many impacts that have no legislatively required mitigation measures or over which there is no regulatory authority. The state legislature has provided no authority in MEPA to allow DEQ or any other state agency to require conditions or impose mitigations on a proposed permitting action that are not included in the permitting authority and operating standards in the governing state law, such as the Opencut Mining Act, the Clean Air Act of Montana, or any other applicable state environmental regulatory law. Beyond that, a company may agree to voluntarily modify its proposed activities or accept permit conditions.

The state law that regulates gravel-mining operations in Montana is the **Opencut Mining Act**. This law and its approved rules place operational guidance and limitations on a project during its life, and provide for the reclamation of land subjected to opencut materials mining. This law requires that a reclamation bond, cash deposit or other financial instrument acceptable to the state be submitted to the state to cover the complete costs of reclaiming the site to its approved, post-mining land use, if the permittee fails to reclaim the site as required by the law, the rules, and the permit.

The decision to issue a permit is based on whether or not the proponent has met the requirements of the Opencut Mining Act, pursuant rules, and other laws pertaining to its proposed actions.

<b>IMPACTS ON THE PHYSICAL ENVIRONMENT</b>	
<b>RESOURCE AND EXAMPLE/GUIDANCE QUESTIONS</b>	<b>POTENTIAL IMPACTS AND MITIGATION MEASURES</b>
<b>1. GEOLOGY AND SOIL QUALITY, STABILITY AND MOISTURE:</b>	<p>The proposed site area is located in mountainous terrain in sediments of unconsolidated shale, sand and gravel. The deposit consists of glacial debris overlying deeper valley bedrock. Some outcrop is exposed on the east side of the permit area. The site is currently a conifer forest.</p> <p>Soil, which is rocky and variable in thickness, would be salvaged and stockpiled away from the pit, road and facility area. Following mining, grading and ripping, the soils would be replaced, disked and seeded to grass. There are no fragile, compactable or unstable soils present, no unusual geologic features and no special reclamation considerations.</p>
<b>2. WATER QUALITY, QUANTITY AND DISTRIBUTION:</b>	<p>The site is located in rocky terrain. The operator would mine eastward, uphill into loose glacial material staying approximately 4 feet above the water table at the lowest level. Surface water would not run through the site, and no negative effects are expected on surface waters in the area as a result of mining at this location. Fuel would not be stored onsite; portable equipment would be refueled by pumping from mobile trucks.</p> <p>This is an isolated forest site and there are no water wells near the site with usable groundwater data. The estimated depth of mining would be 8 feet, and would not intercept the water table.</p>
<b>3. AIR QUALITY:</b>	<p>There would be some increase in particulate matter at times as a result of operating equipment and trucks, but the impacts on air quality would be controlled by seeding grass into the overburden and topsoil piles. Dust from sand and gravel operations of this type generally contribute to a decline in overall air quality, especially during the hot, dry summer months when mining, loading and trucking equipment would be most active. However, air quality regulations must be followed at this site, and the impacts must be kept below an acceptable level. Crushing is only expected to take place for 3 to 4 weeks each year.</p>
<b>4. VEGETATION COVER, QUANTITY AND QUALITY:</b>	<p>There are no known rare or sensitive plants in the site area. Vegetation consists of conifer forest, and covers 85% of the ground. It would be removed and the site replanted with grass species compatible with the proposed reclaimed use.</p>
<b>5. TERRESTRIAL, AVIAN AND AQUATIC LIFE AND HABITATS:</b>	<p>Although the area is primarily a forest historically used for logging, it also supports populations of deer, elk, bears, rodents, song birds, coyotes, foxes, raptors, insects and various other animal species. Population numbers for these species are not known. The proposed mine is expected to temporarily displace some individual species and it is likely that the site would be temporarily re-inhabited following soil replacement and seeding.</p>

	As homesites are developed, there would be some permanent displacement of many of these species.
<b>6. UNIQUE, ENDANGERED, FRAGILE OR LIMITED ENVIRONMENTAL RESOURCES:</b>	Site evaluations and DEQ staff analyses have not revealed any unique, endangered or threatened plant or animal species that would be directly affected to a significant degree. Plant and animal species of special concern are known to utilize the general area, but none have been reported at this site. Animal species of special concern include the Gray Wolf, Fisher, Wolverine, and the Canada lynx. Plant species of special concern include the Sheathed sedge, Round-leaved orchis, Sparrow's egg lady slipper, Mountain moonwort, and the Wavy moonwort.
<b>7. HISTORICAL AND ARCHAEOLOGICAL SITES:</b>	Although there are cultural values in the general area, much of this site has been previously disturbed by logging, thus destroying the integrity of resources that may have existed. The operator is committed to give appropriate protection to any values or artifacts discovered in the affected area in the permit area. If significant resources are found, the State Historic Preservation Office would be promptly notified.
<b>8. AESTHETICS:</b>	The site is not visible to the general public.
<b>9. DEMANDS ON ENVIRONMENTAL RESOURCES OF LAND, WATER, AIR OR ENERGY:</b>	There are no unusual demands on land, water, air or energy anticipated as a result of this permit.
<b>10. IMPACTS ON OTHER ENVIRONMENTAL RESOURCES:</b>	There are no other studies, plans or projects planned for this site.

<b>IMPACTS ON THE HUMAN POPULATION</b>	
<b>RESOURCE</b>	<b>POTENTIAL IMPACTS AND MITIGATION MEASURES</b>
<b>11. HUMAN HEALTH AND SAFETY:</b>	Heavy equipment and facilities including trucks, dozers, loaders and crushers would create hazards, but the operator must comply with all MSHA and OSHA regulations. The operator must employ proper precautions to avoid accidents.
<b>12. INDUSTRIAL, COMMERCIAL AND AGRICULTURAL ACTIVITIES AND PRODUCTION:</b>	The acreage listed in the Type and Purpose of Action would be taken out of forest use and put into industrial/commercial use. Upon completion of mining, the land would be reclaimed to residential homesites.
<b>13. QUANTITY AND DISTRIBUTION OF EMPLOYMENT:</b>	Existing employees would mainly be utilized for this operation. There is a low potential that this project would create any new jobs.
<b>14. LOCAL AND STATE TAX BASE AND TAX REVENUES:</b>	Additional taxes may be generated for the county and state in the form of income to the landowner and fuel and highway taxes paid by hauling equipment.
<b>15. DEMAND FOR GOVERNMENT SERVICES:</b>	The operation would require periodic site evaluations by DEQ staff until such time as the site is successfully reclaimed to the required post-mining use. However, these evaluations are usually performed in conjunction with other area operations.
<b>16. LOCALLY ADOPTED ENVIRONMENTAL PLANS AND GOALS:</b>	The proposed action complies with county zoning regulations. The Lincoln County Planning Director signed the DEQ Zoning Form in October 2007.

17. ACCESS TO AND QUALITY OF RECREATIONAL AND WILDERNESS ACTIVITIES:	No wilderness or recreational areas are nearby or accessed by the public through this tract.
18. DENSITY AND DISTRIBUTION OF POPULATION AND HOUSING:	The project would affect population numbers and distribution in the area by eventually creating new residential homesites.
19. SOCIAL STRUCTURES AND MORES:	This permit would have some effect on social structures or mores. The area has generally been used for logging, and hard rock mining and prospecting. Homesite development would be a change in historical land use in this area.
20. CULTURAL UNIQUENESS AND DIVERSITY:	There would be no effect on cultural uniqueness and diversity at this site as a result of the proposed action.
21. OTHER APPROPRIATE SOCIAL AND ECONOMIC CIRCUMSTANCES:	None.

**Alternatives Considered:**

- A. Denial:** The pit would not be permitted and the owner of the gravel resource would be denied full utilization of his property at this time. However, another application could be submitted to revise the existing plan, or an application could be submitted for another site in the same area.
- B. Approval of the application:** The Plan of Operation has been written with mitigating conditions including water protection, soil salvage, and full reclamation.

**Public Involvement, Agencies, Groups, or Individuals contacted:**

Lincoln County Planning for zoning.

**Other Governmental Agencies with Jurisdiction, List of Permits Needed:**

Lincoln County Weed Control Board, Montana State Historic Preservation Office, Montana Natural Heritage Program.

**Magnitude and Significance of Potential Impacts:**

Impacts are unlikely to be significant on the general environment because of the scope and location of the project, the lack of significant or threatened wildlife or habitat, and because of the mitigation measures placed in the Plan of Operation.

**Regulatory Impact on Private Property:**

The analysis conducted in response to the Private Property Assessment Act (PPAA) indicates no impact is expected on the use of private property. The Department does not plan to deny the application or impose conditions that would restrict the use of private property so as to constitute a taking. See attachment for PPAA checklist assessment.

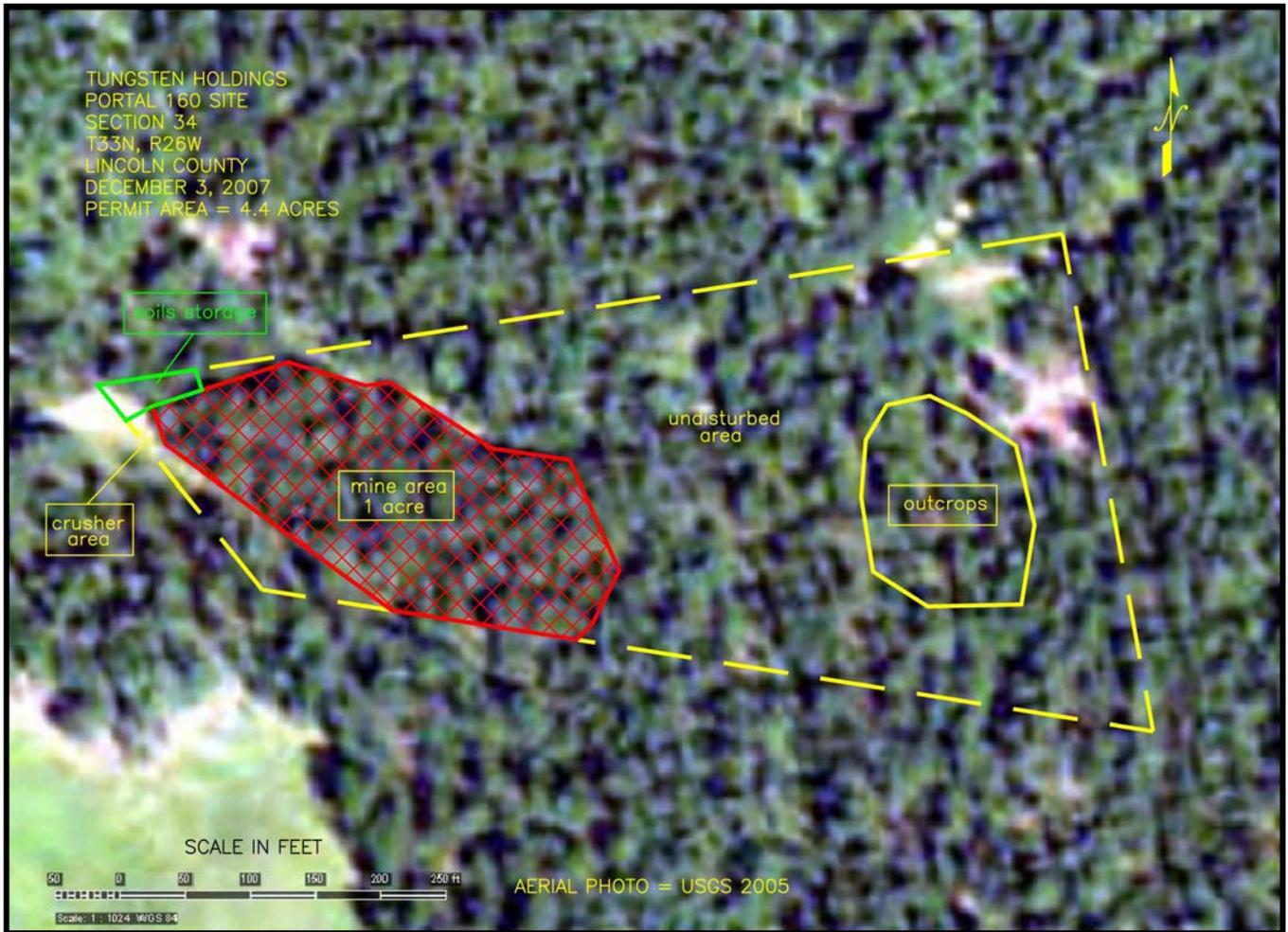
**RECOMMENDATION FOR FURTHER ENVIRONMENTAL ANALYSIS:**

- EIS                       MORE DETAILED EA                       NO FURTHER ANALYSIS

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EA Reviewed By: Chris Cronin, Program Supervisor, Opencut Mining Program

FIGURE 1 – SITE MAP



PRIVATE PROPERTY ASSESSMENT ACT (PPAA) CHECKLIST

**PROPERTY DESCRIPTION: Section 34, T33N, R26W, Lincoln County**

**COMPANY NAME: Tungsten Holdings, Portal 160 Site**

DOES THE PROPOSED AGENCY ACTION HAVE TAKINGS IMPLICATIONS UNDER THE PPAA?

YES	NO	
X		1. Does the action pertain to land or water management or environmental regulation affecting private real property or water rights?
	X	2. Does the action result in either a permanent or indefinite physical occupation of private property?
	X	3. Does the action deprive the owner of all economically viable uses of the property?
	X	4. Does the action deny a fundamental attribute of ownership?
	X	5. Does the action require a property owner to dedicate a portion of property or to grant an easement? (If answer is NO, skip questions 5a and 5b and continue with question 6.)
		5a. Is there a reasonable, specific connection between the government requirement and legitimate state interests?
		5b. Is the government requirement roughly proportional to the impact of the proposed use of the property?
	X	6. Does the action have a severe impact on the value of the property?
	X	7. Does the action damage the property by causing some physical disturbance with respect to the property in excess of that sustained by the public generally? (If the answer is NO, skip questions 7a-7c)
		7a. Is the impact of government action direct, peculiar, and significant?
		7b. Has the government action resulted in the property becoming practically inaccessible, waterlogged, or flooded?
		7c. Has the government action diminished property values by more than 30% and necessitated the physical taking of adjacent property or property across a public way from the property in question?

Taking or damaging implications exist if YES is checked in response to question 1 and also to any one or more of the following questions: 2, 3, 4, 6, 7a, 7b, 7c; or if NO is checked in response to questions 5a or 5b.

If taking or damaging implications exist, the agency must comply with § 5 of the Private Property Assessment Act, to include the preparation of a taking or damaging impact assessment. Normally, the preparation of an impact assessment will require consultation with agency legal staff.