ENVIRONMENTAL ASSESSMENT

On an Application for an

OPENCUT MINING PERMIT

This Environmental Assessment (EA) is required under the Montana Environmental Policy Act (MEPA). An EA functions to identify, disclose, and analyze the impacts of a proposed action. This document may disclose impacts that have no legislatively required mitigation measures, or over which there is no regulatory authority.

The state law that regulates gravel mining operations in Montana is the Opencut Mining Act. This law and the rules adopted hereunder place operational guidance and limitations on a project during its lifetime, and provide for the reclamation of land affected by opencut mining operations.

Local governments and other state agencies may have authority over different resources and activities under their regulations. Approval or denial of this Opencut Application will be based on a determination of whether or not the proposed operation complies with the Opencut Mining Act and the rules adopted thereunder.

APPLICANT: MK Weeden Construction Inc **SITE NAME:** Bair

LOCATION: Section 14, T8N, R11E **COUNTY:** Meagher

DATE: April 2010

PROPOSAL: The applicant proposes to permit a new, short-term gravel pit to mine, crush, stockpile, and transport 57,000 cubic yards of gravel and clay from an 8 acre site located 250 feet north of Martinsdale, Montana. The site is currently an irrigated hay field adjacent to and northwest of the intersection of Hwy 294 and Martinsdale Road.

A reclamation bond would be held by DEQ to ensure the final reclamation use of hayland would be achieved by October 2011.

This application contains all items required by the Opencut Act and Rules. Proponent commits to properly conducting opencut operations and would be legally bound by the permit.

IMPACTS ON THE PHYSICAL ENVIRONMENT	
RESOURCE	**POTENTIAL IMPACTS AND MITIGATION MEASURES**
1. TOPOGRAPHY, GEOLOGY AND SOIL QUALITY, STABILITY AND MOISTURE:	The proposed site is located in the foothills of the Crazy Mountains, just north of Martinsdale, Montana. The deposit consists of alluvial gravel, sand, silt and clay that are mapped as Quaternary alluvium. The soils are approximately 15" deep and consist of sandy clays and sandy clay loams. The site receives approximately 13 inches of precipitation a year. *Impacts:* An irreversible and irretrievable removal of gravel from the site would occur. A small impact to the quantity and quality of soils from salvaging, stockpiling, and resoiling activities also would occur, but this would not impair the capacity of the soils to support full reclamation. There are no unusual topographic, geologic, soil, or special reclamation considerations that would prevent the reclamation from being successful.
2. WATER QUALITY, QUANTITY AND	Groundwater is located approximately 7 to 13 feet below the existing ground surface. The South Fork of the Musselshell River is located

IMPACTS ON THE PHYSICAL ENVIRONMENT	
RESOURCE	**POTENTIAL IMPACTS AND MITIGATION MEASURES**
DISTRIBUTION	approximately 500 feet to the north. There is a large irrigation canal located adjacent to and north of the proposed site. *Impacts:* The proposed activities would have a minimal effect on the quantity and quality of the surface and groundwater resources.
3. AIR QUALITY	Air quality standards are based upon the Clean Air Act of Montana and pursuant rules and are administered by the DEQ Air Resources Management Bureau (ARMB). Its program is approved by the Environmental Protection Agency (EPA). These rules and standards are designed to be protective of human health and the environment. Air quality permits would be required on the processing equipment before installment. Machinery, such as generators, crushers and asphalt plants, are individually permitted for allowable emissions. Best Available Control Technology (BACT) is the usual standard applied. Fugitive dust is that which blows off the pit floor, stockpiles, gravel roads, farm fields, etc. It is considered to be a nuisance but not harmful to health. *Impacts:* Air quality standards as set by the federal government and enforced by the ARMB would allow minimal detrimental air impacts.
4. VEGETATION COVER, QUANTITY AND QUALITY	The existing site vegetation consists of irrigated grass hay (cropland). *Impacts:* No long term detrimental impacts to the vegetation would occur.
5. TERRESTRIAL, AVIAN AND AQUATIC LIFE AND HABITATS:	Although the area is used primarily for pasture, it also supports populations of deer, rodents, song birds, coyotes, foxes, raptors, insects and various other animal species. Population numbers for these species are not known. *Impacts:* The proposed mine is expected to temporarily displace some individual species and it is likely that the site would be re-inhabited following reclamation to similar habitat.
6. UNIQUE, ENDANGERED, FRAGILE OR LIMITED ENVIRONMENTAL RESOURCES:	The Montana Natural Heritage Program (MNHP) lists 2 species of concern in the vicinity of the site. **Grasshopper sparrow** *(Ammodramus savannarum)* is a small sparrow that inhabits grasslands and marshes. The birds migrate to the southern United States, Mexico, Central America and the Caribbean. They forage on the ground in vegetation, mainly eating insects and seeds. **Gray wolf** (*Canus lupus*) is the largest of the wild dogs. In Montana, its range is predominately the western mountainous portion of the state. This species is not migratory but may move seasonally following migrating ungulates within its territory. The gray wolf exhibits no particular habitat preference except for the presence of native ungulates within its territory on a year round basis. *Impacts:* None of the listed species have been found on this site. Even if suitable habitat did exist on this site, the disturbance area would be small and large areas of similar or identical habitat surrounds the site.

IMPACTS ON THE PHYSICAL ENVIRONMENT	
RESOURCE	**POTENTIAL IMPACTS AND MITIGATION MEASURES**
	The possible impact to these species would be minimal.
7. HISTORICAL AND ARCHAEOLOGICAL SITES	The Montana State Historic Preservation Office (SHPO) was notified of the application. It reported no sites have been discovered previously on this property. A pedestrian survey of the area by DEQ personnel did not reveal any artifacts or signs of occupation. No signs were evident at depth in the previously disturbed area. *Impacts:* If during operations resources were to be discovered, activities would be temporarily moved to another area or halted until SHPO was contacted and the importance of the resources was determined.
8. DEMANDS ON ENVIRONMENTAL RESOURCES OF LAND, WATER, AIR OR ENERGY	*Impacts:* Negligible impacts to land, water, air, or energy would occur.

IMPACTS ON THE HUMAN POPULATION	
RESOURCE	**POTENTIAL IMPACTS AND MITIGATION MEASURES**
9. LOCALLY ADOPTED ENVIRONMENTAL PLANS AND GOALS	County zoning clearance has been obtained and there does not appear to be any proposed zoning for this portion of the county.
10. DENSITY AND DISTRIBUTION OF POPULATION AND HOUSING	As seen on the aerial photo of the surrounding area, this site is proposed to be located approximately 250 feet north of Martinsdale, Montana. This is a relatively short lived pit and will be reclaimed by October 2011. *Impact:* This commercial pit being is proposed to be sited in this area because of the location of the resource, and to provide a gravel source for an MDT highway construction job.
11. AESTHETICS	The town of Martinsdale is located approximately 250 feet to the south. The proposed hours of Operation will be from 7 am to 6 pm, Monday through Friday with occasional weekends. Soil berms are proposed to be located on the south side of the permit boundary to help regulate noise.
12. QUANTITY/ DISTRIBUTION OF EMPLOYMENT	*Impacts:* New employment opportunities would be limited as existing employees would mainly be utilized for this operation. There is low potential that this project would create a significant number of new jobs.
13. INDUSTRIAL, COMMERCIAL, AGRICULTURAL ACTIVITIES AND PRODUCTION	*Impacts:* Agricultural production would be reduced on the site for the life of the permit. The site would be reclaimed back to hayland.
14. LOCAL, STATE TAX BASE AND TAX REVENUES, PERSONAL AND COMMUNITY INCOME	Local, state and federal governments would be responsible for appraising the property, setting tax rates, collecting taxes, etc., from the companies, employees, or landowners benefitting from this operation. Following reclamation, it is assumed the tax base would revert to pre-mine levels

IMPACTS ON THE HUMAN POPULATION	
RESOURCE	**POTENTIAL IMPACTS AND MITIGATION MEASURES**
15. DEMAND FOR GOVERNMENT SERVICES	Limited oversight by DEQ officials that are generally conducted in concert with other area activity would occur.
16. HUMAN HEALTH AND SAFETY	Any industrial activity will increase the opportunities for accidental injury. Other government agencies (e.g. MHSHA, OSHA) require specific safety measures. As a result, there is no reason to believe that significant safety issues would be present.
17. ACCESS TO AND QUALITY OF RECREATIONAL AND WILDERNESS ACTIVITIES	This activity would not inhibit the use of the identified resources.
18. NATIVE CULTURAL CONCERNS	*Impacts:* None.

19. Alternatives Considered:

A. Denial Alternative: The Department would deny an application that does not comply with the Act and Rules. No impacts to the natural or human environment would occur.

B. Approval Alternative: The Department would approve an application that complies with the Act and Rules. Impacts of this application are addressed in the body of the EA.

20. Public Involvement, Agencies, Groups or Individuals contacted: Montana State Historic Preservation Office, Montana Natural Heritage Program, Montana Department of Transportation, local planning department, public response to notifications.

21. Other Governmental Agencies which May Have Overlapping or Sole Jurisdiction: Meagher County Commission (zoning clearance), Meagher County Weed Control Board, MSHA and OSHA regarding mine safety.

Possible permits required from other programs or agencies: DEQ's Air Resources Management Bureau regarding air quality, DEQ's Water Protection Bureau for stormwater or discharge permits, Department of Natural Resources and Conservation for water rights permit.

22. Regulatory Impact on Private Property: The analysis done in response to the Private Property Assessment Act indicates no impact. 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.

23. Magnitude and Significance of Potential Impacts: This proposal is not likely to create impacts of significance due to mitigation, restrictions, and oversight mandated by the Opencut Mining Act and pursuant rules and the Montana Clean Air Act.

24. Recommendation for Further Environmental Analysis: [ ] EIS [X] No Further Analysis

EA Prepared By: J.J. Conner (Name) Environmental Scientist (Title)

EA Reviewed By: Chris Cronin (Name) Opencut Mining Program Supervisor (Title)

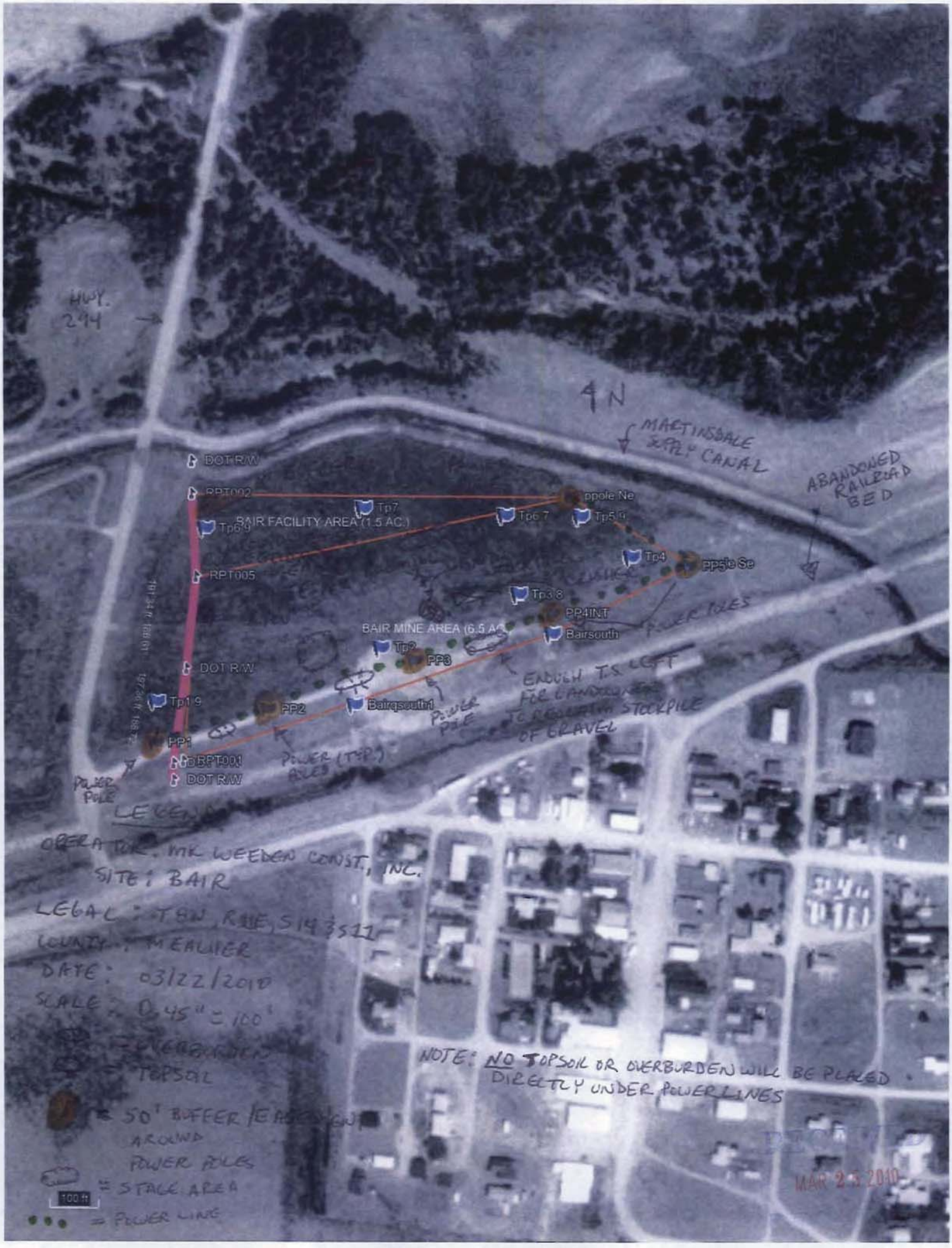
PRIVATE PROPERTY ASSESSMENT ACT (PPAA) CHECKLIST

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.


HWY. 294
4N
MARTINSDALE SUPPLY CANAL
ABANDONED RAILROAD BED
DOT R/W
RPT002
Tp7
ppole Ne
BAIR FACILITY AREA (1.5 AC.)
Tp6 9
Tpc 7
Tp5 0
Tp4
pp5ie Se
RPT005
Tp3 8
PP4INT
BAIR MINE AREA (6.5 AC
Bairsouth
Tp2
PP3
DOT R/W
Tp1 9
PP2
Bairqsouth1
PP1
RPT001
DOT R/W
POWER POLE
POWER POLES (TYP.)
POWER POLE
ENOUGH T.S LEFT FOR LANDSCAPING TO CONCEAL STOCKPILE OF GRAVEL
LEGEND
OPERATOR: MK WEEDEN CONST., INC.
SITE: BAIR
LEGAL: T8N, R4E, S19 & S21
COUNTY: MEAGHER
DATE: 03/22/2010
SCALE: 0.45" = 100'
TOPSOIL
50' BUFFER (TYP.) AROUND POWER POLES
= STAGE AREA
= POWER LINE
100 ft
NOTE: NO TOPSOIL OR OVERBURDEN WILL BE PLACED DIRECTLY UNDER POWER LINES
MAR 25 2010