

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: Bay Materials, LLC

SITE NAME: Normont Farms Pit

LOCATION: Section 22, T35N, R3W

COUNTY: Toole

DATE: April 2010

PROPOSAL: The proponent has applied for a 42.3 acre opencut mining permit for a site located approximately 1.5 miles northwest of Kevin, Montana. The proposed site is located adjacent to and north of Ted Pit road. The proponent proposes to mine, screen, crush and transport approximately 900,000 cubic yards of gravel from the site. The proponent has proposed having an asphalt plant and wash plant located within the facility area.

Once the soil has been reapplied, the site would be reclaimed back to pastureland with 3:1 or flatter slopes. DEQ would hold sufficient bond on the 42.3 acres to ensure that final reclamation is completed by December 2030, in accordance with the approved Plan of Operation.

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:	<p>This site is located in the rolling hills of the Sunburst oil fields. It is located in marine deposits of the Marias River Formation. The onsite loamy soils range from 4 to 8 inches deep with an average of 4 inches of sandy overburden. The proponent proposes to mine to a total depth of 15 feet. There is a thick layer of clay at approximately 15 feet. On average the site receives approximately 11.6 inches of annual rainfall.</p> <p><i>Impacts:</i> 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.</p> <p>There are no unusual topographic, geologic, soil, or special reclamation considerations that would lead to reclamation failure.</p>

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2. WATER QUALITY, QUANTITY AND DISTRIBUTION	<p>Groundwater is located very deep at this site. The nearest well is located approximately 7,000 feet to the north.</p> <p><i>Impacts:</i> The proposed activities would have minimal to no effect on the quantity and quality of the surface and groundwater resources.</p>
3. AIR QUALITY	<p>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.</p> <p>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.</p> <p>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.</p> <p><i>Impacts:</i> Air quality standards as set by the federal government and enforced by the ARMB would allow minimal detrimental air impacts.</p>
4. VEGETATION COVER, QUANTITY AND QUALITY	<p>Currently much of the site is in the Conservation Reserve Program (CRP) consisting of crested wheatgrass, bluebunch wheatgrass, green needlegrass and slender wheatgrass. No noxious weeds were identified onsite or nearby.</p> <p><i>Impacts:</i> No long term detrimental impacts to the vegetation would occur.</p>
5. TERRESTRIAL, AVIAN AND AQUATIC LIFE AND HABITATS:	<p>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.</p> <p><i>Impacts:</i> 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.</p>
6. UNIQUE, ENDANGERED, FRAGILE OR LIMITED ENVIRONMENTAL RESOURCES:	<p>The Montana Natural Heritage Program (MNHP) lists the following 4 species of concern in the vicinity of the site:</p> <p>Brewer's sparrow (<i>Spizella breweri</i>) is a songbird strongly associated with sagebrush over most of its range. In summer it is found across Montana. This species migrates to the Southwestern U.S. and Northern Mexico for winter. Brewer's sparrows are closely associated with sagebrush, preferring dense stands broken up with grassy areas.</p> <p>Chestnut-collared longspur (<i>Calcarius ornatus</i>) is a small, sparrow-like songbird. The eastern two-thirds of Montana, east of the Rocky Mountain Front, make up a portion of its summer range. Species winter from Colorado and Kansas south to Texas and northern Mexico. Dry elevated prairies and short-grass plains are its preferred habitats.</p> <p>McCown's longspur (<i>Calcarius mccownii</i>) is a medium-sized sparrow. The eastern three-quarters of Montana make up a portion of its summer range. McCown's longspur spends its winters from</p>

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	<p>Nebraska and Colorado southward. It is found in shortgrass prairies, native grasslands, pastures, and agricultural areas.</p> <p>Ferruginous hawk (<i>Buteo regalis</i>) is a large bird of prey. Most of Montana is summer range for this raptor. Fall migration begins in August and continues into early September. Young birds will migrate south earlier than, and independent of adults. The habitat of this hawk is described as mixed-grass prairie, shrub-grasslands, grasslands, grass-sagebrush complex, and sagebrush steppe.</p> <p><i>Impacts:</i> None of the listed species have been reported on this site. Even though suitable habitat may exist on this site, the proposed disturbance area would be small and large areas of similar or identical habitat surrounds the site. The possible impact to these species would be minimal.</p>
7. HISTORICAL AND ARCHAEOLOGICAL SITES	<p>The Montana State Historic Preservation Office (SHPO) was notified of the application. It reported that no previously recorded sites have been discovered on this property and recommended that a cultural resource inventory be conducted in order to determine whether or not sites exist and if they would be impacted. 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 previously disturbed areas or the adjacent county pit.</p> <p><i>Impacts:</i> In accordance with the Plan of Operation Section II-J, Item 4 and ARM 17.24.218(1)(h)(i), if during operations, cultural resources were to be discovered, it is the operator's responsibility to temporarily halt mining activities and contact SHPO for further direction.</p>
8. DEMANDS ON ENVIRONMENTAL RESOURCES OF LAND, WATER, AIR OR ENERGY	<p><i>Impacts:</i> Negligible impacts to land, air, or energy would occur.</p>

IMPACTS ON THE HUMAN POPULATION	
RESOURCE	POTENTIAL IMPACTS AND MITIGATION MEASURES
9. LOCALLY ADOPTED ENVIRONMENTAL PLANS AND GOALS	<p>The area is currently not zoned.</p>
10. DENSITY AND DISTRIBUTION OF POPULATION AND HOUSING	<p>As seen on the aerial photo of the surrounding area, the site is located away from any residential homes or commercial businesses.</p> <p><i>Impact:</i> This pit is being sited in this area because of the location of the resource, and to service the numerous small and large projects located in this area.</p>
11. AESTHETICS	<p>There are no nearby residents or neighbors. The site is located in a rural area surrounded by oil wells and other gravel pits.</p>

IMPACTS ON THE HUMAN POPULATION	
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12. QUANTITY/ DISTRIBUTION OF EMPLOYMENT	<i>Impacts:</i> New employment opportunities would be limited as this is a relatively small operation.
13. INDUSTRIAL, COMMERCIAL, AGRICULTURAL ACTIVITIES AND PRODUCTION	<i>Impacts:</i> Grazing production would be reduced on the site for the life of the permit. However, after reclamation the site will be reclaimed back to a grassland/pastureland.
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.
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. There are agencies that require specific safety measures are in place. If followed 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	<i>Impacts:</i> None identified.

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.

21. Other Governmental Agencies which May Have Overlapping or Sole Jurisdiction: Toole Commission (zoning clearance), Toole 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.

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.

