

ENVIRONMENTAL ASSESSMENT

On an Application for an OPENCUT MINING PERMIT

The Montana Department of Environmental Quality (DEQ) prepared this Environmental Assessment (EA) in accordance with requirements of 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 thereunder 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. The DEQ approval of this application would not relieve the operator from the obligation to comply with any other applicable federal, state, or county statutes, regulations, or ordinances. The operator is responsible for obtaining any other permits, licenses, approvals, etc. that are required for any part of the proposed operation.

APPLICANT: Riverside Contracting, Inc.

SITE NAME: Loyning Borrow

LOCATION: Section 8, T8S R24E

COUNTY: Carbon

DATE: October 2010

PROPOSAL: Riverside Contracting proposes to mine 100,000 yards of borrow from a 5.4-acre site over the next year. The material would be used on an MDT Road reconstruction project. A reclamation bond would be held by DEQ to ensure that final reclamation of the site grassland by November 2011. This application contains all items required by the Opencut Mining Act and its implementing 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>The site is the end of a small alluvial fan at the foot of the sandstone ridges that delineate Jack Creek and the Clark's Fork of the Yellowstone River Valley. Precipitation in the area is about 6 inches annually. The soils are clays and clay loams that have been eroded due to the pattern of severe summer thunderstorms and grazing practices. Overburden thickness varies. Some areas have no topsoil but one soil type has good overburden depths.</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. There are no unusual topographic, geologic, soil, or special reclamation considerations that would prevent reclamation success.</p>
2. WATER QUALITY, QUANTITY AND DISTRIBUTION	<p>There are no water features on site. Jack Creek runs near the foot of the site along the southern side. The western boundary is Highway 310 and the eastern boundary is the railroad. Groundwater is about 20 feet below the base of Jack Creek.</p>

IMPACTS ON THE PHYSICAL ENVIRONMENT	
RESOURCE	POTENTIAL IMPACTS AND MITIGATION MEASURES
	<i>Impacts:</i> The proposed activities would not affect the quantity and quality of the surface and groundwater resources. Riverside is buying operational water from a ditch company off site.
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. 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>The site is sparsely vegetated with native grasses, greasewood, and some sagebrush. No noxious weeds were observed.</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>The area is used primarily for grazing. It supports a few deer, rodents, song birds, coyotes, raptors, insects and various other animal species. Population numbers for these species are not known.</p> <p><i>Impacts:</i> The proposed borrow site 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 3 species of concern in the vicinity of the site. Sage grouse are in the vicinity, although individuals have not been seen on site. A small patch of Gray's Milkvetch, which is rare in Montana, is located 3 miles to the north along the highway.</p> <p><i>Impacts:</i> None of the listed species has been found on this site. Although marginal habitat exists on this site for sage grouse, the disturbance area would be small and large areas of similar or identical habitat surrounds the site. There would be no impact to Gray's Milkvetch.</p>
7. HISTORICAL AND ARCHAEOLOGICAL SITES	<p>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.</p> <p><i>Impacts:</i> 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.</p>
8. DEMANDS ON ENVIRONMENTAL RESOURCES OF LAND, WATER, AIR OR ENERGY	<i>Impacts:</i> 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	The site is not zoned.
10. DENSITY AND DISTRIBUTION OF POPULATION AND HOUSING	No homes are near this site. <i>Impact:</i> This pit is being sited in this area because of the MDT contract for highway reconstruction.
11. AESTHETICS	No aesthetic mitigation has been proposed.
12. QUANTITY/ DISTRIBUTION OF EMPLOYMENT	<i>Impacts:</i> New employment opportunities would be limited. Employees permanently work for Riverside and its subcontractors. This is a short-term operation.
13. INDUSTRIAL, COMMERCIAL, AGRICULTURAL ACTIVITIES AND PRODUCTION	Range pasture would be limited on this site until reclamation was reestablished. <i>Impacts:</i> Agricultural production would be reduced on the site for the life of the permit.
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	Inspections by DEQ officials are generally conducted in concert with other area activity.
16. HUMAN HEALTH AND SAFETY	Any industrial activity will increase the opportunities for accidental injury. Other government agencies (e.g. MSHA, 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	<i>Impacts:</i> 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

21. Other Governmental Agencies which May Have Overlapping or Sole Jurisdiction: Carbon County Commission, Carbon 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.

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.