

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: MK Weeden Construction, Inc.

COUNTY: Roosevelt

SITE NAME: DNRC #1

DATE: July 2011

LOCATION: Section 16, T28N, R56 E

PROPOSAL: The applicant proposes to permit a new, long-term gravel pit to mine, crush, stockpile and transport 200,000 cubic yards of scoria from a 27.2 acre site located 2.3 miles north of Culbertson. An existing oil well facility is located 400 feet west of the proposed permit area with pipelines running north and south from the oil facility.

A reclamation bond would be held by DEQ to ensure that final reclamation of the site to grassland would be completed by June 2017.

The site is located on Montana trust lands that are administered and managed by the Department of Natural Resources and Conservation (DNRC).

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 topography consists of steep hills with gently sloping ridge tops and moderately sloping draws and bottomlands.</p> <p>The site is located north of the Missouri River. Geology is Tertiary sediments of the Tongue River member of the Fort Union formation.</p> <p>The onsite soils are mapped as a Zahill-Cabba-Cambert complex of loam and silt loam derived from glacial till or weathered interbedded sedimentary rock. The operator will replace 12 inches of soil and 15 inches of overburden.</p> <p>The site receives approximately 13 inches of precipitation per year.</p>

IMPACTS ON THE PHYSICAL ENVIRONMENT	
RESOURCE	POTENTIAL IMPACTS AND MITIGATION MEASURES
	<p><i>Impacts:</i> An irreversible and irretrievable removal of scoria mineral 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>An ephemeral stream is located 500 feet east of the site. Water for dust control will be obtained from a source in the town of Culbertson.</p> <p><i>Impacts:</i> The proposed activities would have a minimal effect on the quantity and quality of the surface and groundwater resources.</p> <p><i>Cumulative:</i> Cumulative impacts for this site would be negligible.</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>There are no known rare or sensitive plants or cover types present in the site area. Onsite vegetation consists of native grasses, sedges, and various forbs; and provides approximately 90-100% cover. The vegetation would be removed as soil is stripped and the site would be replanted with plant species compatible with the proposed reclaimed use.</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 antelope, 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 one species of concern in the vicinity of the site:</p> <p>Whooping Crane (<i>Grus americana</i>) is the tallest bird of North America, reaching nearly 1.5 meters in height. The vocalization of the Whooping Crane is the feature that defines its common name. The call is described as a clear, loud, bugling "bKAAAH", high-pitched and longer than that of the Sandhill Crane. The loud resonating calls may be heard up to two miles away. The sexes appear similar; adult plumage is snowy-white overall, with males generally larger than</p>

IMPACTS ON THE PHYSICAL ENVIRONMENT	
RESOURCE	POTENTIAL IMPACTS AND MITIGATION MEASURES
	<p>females. Black primaries, not visible when the wings are folded, contrast with the otherwise white plumage. The long legs are dark gray to black, while the feet are lighter in color, nearly to light tan. The Whooping Crane has been observed in grain and stubble fields as well as wet meadows, wet prairie habitat, and freshwater marshes that are usually shallow and broad with safe roosting sites and nearby foraging opportunities. Migrants feed primarily in a variety of croplands. The Whooping Crane generally probes in the mud or sand in or near shallow water. During summer the Whooping Crane feeds on insects, crustaceans, and berries. The Whooping Crane breeds monogamously with the same mate throughout life. Breeding behavior of the Whooping Crane, which includes an elaborate mating dance, begins in late winter and increases with the coming of the spring migration.</p> <p><i>Impacts:</i> The Whooping Crane is a passage migrant known to fly through northeast Montana during both spring and fall migration. There is one occurrence of the Whooping Crane overlapping this site. If suitable habitat does exist on this site, the disturbance area would be small and large areas of similar or identical habitat surround the site.</p>
7. HISTORICAL AND ARCHAEOLOGICAL SITES	<p>The Montana State Historic Preservation Office (SHPO) was notified of the application. It reported that no sites have been discovered previously on this property. Based on the lack of inventory and the ground disturbance required by this undertaking, the SHPO felt that this project has the potential to impact cultural properties, and therefore, recommended that a cultural resource inventory be conducted in order to determine whether or not sites exist and if they will be impacted.</p> <p>The DNRC staff archaeologist conducted a Class III inventory of cultural and paleontologic resources in the area of potential effect. No cultural or paleontologic resources were identified. A cultural and paleontologic resources inventory report has been prepared concerning proposed developments and is on file with the DNRC (Helena), and the Montana State Historic Preservation Office (Helena). The State Historic Preservation Officer concurred with the DNRC's field methods and findings in: <i>Cultural Resources Inventory of a Series of Proposed Scoria Quarries in Richland and Roosevelt Counties, Montana</i>. The report was prepared for the DNRC (Helena, MT). The report is dated June 2011.</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	<p>There are no unusual demands on land, water, air or energy anticipated as a result of this project.</p> <p><i>Impacts:</i> Negligible impacts to land, water, air, or energy would occur.</p>

IMPACTS ON THE HUMAN POPULATION	
RESOURCE	POTENTIAL IMPACTS AND MITIGATION MEASURES
9. LOCALLY ADOPTED ENVIRONMENTAL	Zoning compliance to mine scoria is not required by Opencut law or regulations.

IMPACTS ON THE HUMAN POPULATION	
RESOURCE	POTENTIAL IMPACTS AND MITIGATION MEASURES
PLANS AND GOALS	
10. DENSITY AND DISTRIBUTION OF POPULATION AND HOUSING	As seen on the aerial photo of the surrounding area, there are no nearby residences. <i>Impact:</i> This commercial pit is being sited in this area because of the location of the resource, and to service the need for domestic oil production by providing resources for facility roads and drill pads in this area of the country.
11. AESTHETICS	The site is located in a common grassland area. There would be a temporary alteration of aesthetics while mining is under way. However, reclamation would return the area to a visually acceptable landscape. This project is considered to be long-term, i.e., planned to take 6 years to complete.
12. QUANTITY/ DISTRIBUTION OF EMPLOYMENT	Existing employees would mainly be utilized for this operation. There is low potential that this project would create a significant number of new jobs. <i>Impacts:</i> New employment opportunities would be limited.
13. INDUSTRIAL, COMMERCIAL, AGRICULTURAL ACTIVITIES AND PRODUCTION	The acreage listed in the proposal would be taken out of grassland use. Upon completion of mining, the land would be reclaimed to grassland. <i>Impacts:</i> Grassland production would be reduced as soil stripping and operations progress across the site. When the entire site is opened up for mining and mine-related activities, all grassland activities would cease.
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 Openpit Program personnel would be conducted in concert with other area activity when in the vicinity.
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

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.

