

March 30, 2004

Re: Responses to Comments on the Supplemental Programmatic Environmental Assessment and Approval of the Proposed General Quarry Permit

Dear Reader:

On February 1, 2004, the Montana Department of Environmental Quality (DEQ) published the Supplemental Programmatic Environmental Assessment (SEA) for the proposed General Quarry Permit for standardized plans of operations for multiple-site quarry and rock collecting operations. During the 30-day public comment period ending March 1, 2004, DEQ received seven comment letters, phone calls, and e-mails (Appendix C). DEQ's responses to these comments are attached in Appendix D. None of the comments resulted in substantive changes to the SEA. Section V.1 of the General Quarry Plan of Operations in Appendix A of the SEA has been revised to address concerns from the State Historic Preservation Office:

"The Operator will *contact the State Historic Preservation Office (SHPO) and request a file search for previously recorded archeological sites in the permit area. Attach a copy of the SHPO response.*"

This letter is being sent to the same people that received the SEA. If you would like another copy of the SEA, or if you have questions on the environmental assessment process, please contact Patrick Plantenberg, Operating Permit Section Supervisor, at DEQ, P. O. Box 200901, Helena, MT 59620, or call (406) 444-4960 or e-mail at pplantenberg@state.mt.us, and one will be mailed to you.

Based on the analysis of potential environmental impacts and the lack of substantive comments received on the SEA, DEQ has determined that the Proposed Action as described in the SEA will not have any significant impacts on the human environment, and the preparation of an environmental impact statement is not required.

The SEA for the General Quarry Permit, the General Quarry Plan of Operations as modified by the SHPO comment listed above (Appendix A in the SEA), and the Application for Operating Permit form (Appendix B in the SEA) are hereby approved. This permitting process for multiple small quarries or rock collection sites would be more efficient than the standard process that is currently required

for multiple sites due to restrictions placed on small miners in the Montana Metal Mine Reclamation Act (MMRA). There would be minimal impacts to the environment during operation at sites approved under this General Quarry Permit, and there must be no potential for acid rock drainage. No impacts would be allowed to affect surface water or groundwater, wetlands, archeological or cultural resources, or threatened or endangered plant or animal species during operation. Soil would be salvaged and/or protected to prevent erosion and facilitate reclamation. Storm water controls would be required to prevent erosion and possible sedimentation of nearby streams outside the 100-foot buffer zone. Each site would be reclaimed immediately following quarry closure. Any sites that could not meet these criteria would have to be permitted through the standard operating permit application process.

As of the date of this letter applicants may apply for this permit for multiple small quarries or rock collection sites meeting the required criteria summarized above and described in the SEA. Applicants must complete the General Quarry Plan of Operations and Application for Operating Permit form attached to the SEA as Appendices A and B. The forms are available electronically on the DEQ web page as listed below. If you have any questions pertaining to the permitting process, please contact Pete Strazdas at (406) 444-4962, Ryan Harris at (406) 444-4330 or Patrick Plantenberg. The SEA is also available on the DEQ web page at <http://www.deq.state.mt.us/ea.htm>.

Sincerely,

Warren McCullough, Chief
Environmental Management Bureau

2 Appendices

g:/p&c/mepa/ea/finalquarrysealtr.doc

APPENDIX C

COMMENT LETTERS

Plantenberg, Pat

From: Lynne Dickman [ldickman@fs.fed.us]
Sent: Monday, March 01, 2004 4:50 PM
To: pplantenberg@state.mt.us
Subject: General Quarry Permit

I don't have any problem with the format of the supplemental programmatic environmental analysis that you mailed out for comment, but I do have an issue with the fact that it is may be required at all on National Forest System land.

We require all potential quarry operators on the National Forest to submit a plan of operations. An environmental analysis appropriate to the level of activity is completed/or approved by Forest Service specialists. In some cases, a bond is placed. What you are proposing is unnecessary paper work in that it duplicates what we already do.

Lynne Dickman
Bitterroot N.F.
407 777 7415

Plantenberg, Pat

From: Holt, Martin
Sent: Tuesday, March 09, 2004 1:11 PM
To: Plantenberg, Pat
Subject: small quarrying

Patrick, just a note, I am engaged in various rock picking activities around this area. Mostly I get stone out of 19th Century granite quarries. But also from surface picking. I read the SEA document, and I think it is okay. There are two items I think are questionable. One is the potential impact on MT counties. Most counties would see virtually no impact, and those that might, would experience them more in the sense of a small community seeing a landmark destroyed. This is a very problematic situation because it is highly localized and personal. Still, why should an outsider, or even an insider, be allowed to go into a place and remove features that a neighbor regarded as a totem or shishook of some kind. Many stone miners are oblivious to the beauty of natural formations. Certainly most would grab a stone they wanted without thought to its impact on a neighbor, especially if that neighbor had no veto power over the operation.

So in that cultural area, is where the greatest potential for damage exists. If people will pry petroglyphs from a cliff face, they will dislodge a mossy granite boulder to haul away to decorate a site fifty miles away, knowing that someone out there will pay for it, but they forget that some one next door may have also appreciated the object for the same reason. I honestly do not think that the stones themselves care, but people do and other people are totally insensitive. I do not have an answer for you, to this dilemma, but I would be glad to consider it with you, if you need another vision.

Otherwise, I think the change will meet a growing commercial need. Ultimately you may need an oversight staff who can preview a site to identify landmarks and other special features that should not be disturbed. For example, there is a beautiful Boulder and Juniper that sits out west of town by that antique mall near the Bauxendale Fire House. I have often thought it ought to be protected, a State Park or something. So far, it remains undisturbed even though there is some development happening around it. I assume the locals there recognize its unique beauty. But some merchant contractor could just come in there with an excavator and haul it off on his loby and set it down in Billings for big bucks and It would hurt us. Yours, Martin

Martin Holt
Environmental Specialist
Dept. of Environmental Quality
(406) 444-0485
mholt@state.mt.us

Ralph Jackson
Clearwater Stone
St. Regis, Montana
25 February, 2004

Mrs. Pete Strandas,
Patrick Plantenberg &
Warren McCullough,
Montana DEQ

COPY

RECEIVED

FEB 27 2004

DEPT. ENVIRONMENTAL QUALITY

Sirs:

RE: Your supplemental EA for a Quarry Permit and Proposals, I would like to make a few comments. And thank you for the chance. I first got involved in the quarry business back in the '70s when I staked 10 claims that became the Muchwater Quarry. I discovered the site in the early '70s and staked in 1978 & 1979, initially. As you can see, there has been a great sea-change in the quarry & mining business. I tried to model my operations after the great and highly successful quarry operations in Idaho and Arizona, some of which became patented under the mining laws of 1872 & 1892, and that created the great demand for building stone that we see today. I strove to create such a new industry here in Montana. During the recession of the early 1980s, Sanders county and Mineral County experienced unofficially, 45% and 46% unemployment. It was beginning to look like another depression, which thank God, did not occur. My operation was stymied again and again by my ignorance of how government works, by the restrictions of state & federal government, and the changes in mining law and the introduction of a barrage of environmental legislation. And we can no longer patent stone quarries in order to protect production & sales from outside interests. Whether that was necessary or not is a moot question. My operation was definitely limited and I lost control of the markets I developed in the name of business self interest. Supposedly capitalism works on that self interest. Also in the late '60s, I could see the end of huge stands of giant old growth timber, high ball logging and giant sawmills. The volume just was not going to be there. So rather naively, I thought that the stone industry in Montana would make a great substitute. You see, I did have SOME vision. But it was government restrictions, and the denial that they did it, that discouraged and limited my business, and gave it away to competitors. So please let me comment.

First, a lot of state & federal regulations are redundant. And the restrictions are so great as to severely limit and kill an operation. Well you know that. It is just about impossible to operate legally. Do we really need the MDEQ on federal or private ground in 99% of the sites? Does not government solicit the attentions of the negotiators who don't want anything done anywhere, and probably have it made? Don't federal agencies have a broader overview when it comes to creating jobs and the economy?

Next, because of intense competition, quarriers need more than one site in order to survive as a business.

You are correct in excluding access roads to quarry sites as part of the 5 acre disturbance. I was forced out of the Muchwater Quarry on the basis of including the main mile long access road as disturbance, that we put in in 1980 & '82. That quarry still retains one of the thinnest, hardest, spectacularly beautiful thin stone in the West. I now see four locks on my gate into that quarry that I used to develop national markets, and especially Western markets, and on which I staked those original mining claims. This site is nearly out of sight, and unknown to many of the people who resided in that general area for up to twenty years. And the brush grew thick and tall along much of the access road, along with the grasses on the road, making it look like it had been there a hundred years. The last few years the answer was almost always "No" when I asked the government for something in the quarry. It may not be popular, but it made me a great believer in patenting an operation. Maybe we ought to reconsider our options on that.

On reclamation: in many quarries the stone lies right on or at the surface. That's how the merchantable stone was discovered. Because the ground is always tilted and uneven, and contains boulders and especially rock ribs, six inches of soil is too thin to save. Usually two or three feet is too tough. If the ground is steep, two feet of surface cut dirt may only be 14 inches thick, which is too thin and requires too much machine time and effort to separate the dirt from the rock and set it aside. And by the way, it takes years of backbreaking work to capitalize that heavy equipment needed to do reclamation.

Scaling back highwalls may not be very effective either. In my kind of flagstone, the stone is not loose, but rather is bedded in very solidly. Hence scaling back the highwall only creates more possibility for erosion.

Our highwalls are hardly ever over 12 or 14 feet high. It makes a lot more sense to move the waste rock and dirt, if any can be separated on initial quarrying, back up against the high wall and tapered off like a natural contour.

Quarrying this kind of stone is a long, slow moving process. In our really thin material, usually each individual piece must be hand separated, cleaned, split and graded.

Consequently little ground is disturbed even in the long run, so little bonding is required. I quarried in the Muchwater Quarry for about twenty years and disturbed only about 3 acres. There was little soil left or put back on the contoured waste material, but we did our best. When I went into that operation I told the U.S. Forest Service that I wanted to open up 10 to 20 acres so that the rain & freeze/thaw work of Mother Nature could separate the rock for us. We never reached that far because of the artificial restrictions imposed by government agencies.

Remember this: This stone will be quarried for hundreds and probably thousands of years.

On royalties: These are a prepaid tax on the quarry operations. I do not believe that you can really tax a business. Why? Because those taxes must be passed right on to the wholesaler, the contractor and the consumer. So here is a tax that goes up in multiples. A Pre-tax! And that pre-tax also restricts our ability to compete with foreign competitors. Back in the early 90s I began to cut tile from thin slabs of rock from my quarry. It was gorgeous tile. Prettiest on the market then. Not for business I went to the coast and visited with Ann Sachs Tile & Stone. She liked the tile. So eventually I gave her about 500 tiles for samples for all of her high-end tile stores in her national chain. She told me later that she gave them to her help! Instead she imported similar stone tile from India, eventually China and Brazil. Thank you Ann! There went my tile and roof tile business. And thank you Government! "Don't blame you and don't blame me. Blame that fellow over there under that tree" - Huey Long on new taxes. I really believe that taxes have to come out of labor, not capital. And if you tax too much, that reduces money in the bank, for the bank to lend against, which reduces our much needed capital.

Of course you can argue that they need the jobs overseas and that that made the product much cheaper. But I also employed migrant workers as well as local boys desperate for work. Some worked for me up to 10 seasons.

Quarry operations should be treated as private property when it comes to visitors. Why should a competitor pretending to be a recreationist be allowed to peruse my operation and steal my secret methods? Why should a recreationist, who is playing, be allowed to limit or shut down my operation? I put thousands & thousands of hours and dollars into my operation, along with enormous risk. Do I want to close down because of some crackpot who understands little about the role of business in our society and economy? I discovered that there are always people who do not want anything done. It seems to be a form of jealousy. Quarry operators of my type are almost always way out of town and usually out of sight.

So in summary I want to see less government, not more, less duplication, and more protection for the business. Quarry people are among the hardest working in our country. We need protection, if not by mining claim & patent, something very similar. Mining claims have been effective since the Roman times, came to Latin America from Spain, and here from Mexico. Let's protect our assets.

Gincerely,
K. A. A. A.

GENERAL Q400
EA

DEPARTMENT OF ENVIRONMENTAL QUALITY

. 221
Classification
Comments

Date: 3/1/04 Time: _____ a.m. _____ p.m.
File No. / Name: _____
Contact: RICK SENIOR
Address: VALLEY CO. ROAD DEPT
Phone: _____

RESULTS OF CONVERSATION OR DISCUSSION:

TH FEB. 26: RICE CALLED.
REVIEWED CALL MONDAY:
WANTED TO KNOW IF THIS ED APPLIED TO
GRAVEL PITS. EXPLAINED IT DIDN'T
NO OTHER COMMENTS

FOLLOW-UP ACTION REQUIRED? Yes _____ No

Paul Pley 3/1/04
DEQ Employee Date



MONTANA HISTORICAL SOCIETY

225 North Roberts ♦ P.O. Box 201201 ♦ Helena, MT 59620-1201
♦ (406) 444-2694 ♦ FAX (406) 444-2696 ♦ www.montanahistoricalociety.org ♦

Wednesday, February 04, 2004

Patrick Plantenberg
DEQ Permitting and Compliance – Hard Rock
POB 200901
Helena MT 59620-0901

RECEIVED

FEB 05 2004

DEPT. ENVIRONMENTAL QUALITY

RE: Draft SEA General Quarry Permit

Mr. Plantenberg:

Thank you for requesting our comments on the proposed General Quarry Permit *Draft* SEA. I spoke with our Records Manager Damon Murdo about his experience with the past/present Permit process involving small hard rock quarries and collecting sites. It was his belief that our involvement has been limited to providing information on recorded archaeological sites on state or federal lands. If we have been requested to provide information for DEQ permits on private lands in the past those requests have not been common.

We suggest that a simple modification to **Section V –Other** in the Plan of Operations application on page 7 would comport further with MEPA language and common state agency practice. We suggest wording at **V I.** such as Operator will contact the State Historic Preservation Office and request a file search for previously recorded archaeological/historic sites in the permit area. Attach a copy of the SHPO response.

This simple modification would also facilitate DEQ programmatic assessment of possible impacts and the goals of the General Permit as indicated in section 7 of the Programmatic Analysis (page 9). Please find attached a copy of our standardized file search request form for your information. If you wish further comment or assistance please do not hesitate to let me know.

Stan Wilmoth, Ph.D.
State Archaeologist/Deputy, SHPO

File DEQ Hard Rock



STATE HISTORIC PRESERVATION OFFICE ♦ 1410 8th Ave ♦ P.O. Box 201202 ♦ Helena, MT 59620-1202
♦ (406) 444-7715 ♦ FAX (406) 444-6573

DEPARTMENT OF ENVIRONMENTAL QUALITY

GENERAL
INVESTIGATIVE
PROGRAM
831

Date: 2/3/04

Time: _____ a.m./ _____ p.m.

Comment on lead

File No./Name: _____

Contact: _____

Address: _____

Phone No.: _____

RESULTS OF CONVERSATION OR DISCUSSION:

Anonymous call on
Quarry EA wants to see a
big bond set on these
to protect environment.

12:10pm

2/3/04

Taken by Craig Jones

FOLLOW-UP ACTION REQUIRED? YES NO

Paul Zille

DEQ Employee

2/3/04
Date

Plantenberg, Pat

From: Steve Perrone [Steve.Perrone@plumcreek.com]
Sent: Thursday, February 05, 2004 7:00 AM
To: Henning Stabins
Cc: pplantenberg@state.mt.us; ryharris@state.mt.us
Subject: Re: rock quarry draft SEA comment

Thanks for your critique, I will pass it along. Perhaps the word "sensitive" could be removed.

>>> Henning Stabins 2/4/2004 10:46:41 AM >>>

Steve:

I had the chance to look over the Draft SEA you sent. Looks good. However, I found one possible edit:

The term "sensitive" is used in the Biological Diversity sections when discussing plants (see below). Everywhere else in the document, only threatened and endangered plants are referred to. Perhaps this is an oversight by the DSO?

Draft SEA:

bottom of page 6:

*Biological Diversity

Vegetation on quarry sites consists of meadows, rangelands, forests, or agricultural crops, supporting a typically array of wildlife species including small and large mammals, reptiles, and birds. Sites supporting threatened, endangered or sensitive plant species would not be permitted under this general permit."

Call me if you have any questions.

HCS

APPENDIX D

RESPONSES TO COMMENTS ON THE PROGRAMMATIC SEA FOR THE GENERAL QUARRY PERMIT

RESPONSE TO LYNNE DICKMAN'S COMMENT REGARDING THE DUPLICATIVE NATURE OF THIS PERMIT ON FEDERAL LANDS:

Under Montana law all small miners are required to apply for a Small Miners Exclusion Statement (SMES). Under the SMES they are limited to two sites of not more than 5 acres disturbed and unreclaimed at each site at any one time. The sites must be at least one mile apart. All hardrock mining operations that do not qualify for a SMES must have an operating permit. The law pertains to all operations on private and public (state, federal, or county) lands. Typically when operations occur on federal lands, a joint environmental assessment is conducted and the decision-makers make joint or separate decisions. For a proposed SMES operation, the state is not required to prepare a MEPA document because the SMES is not a state action. The federal agency requires a plan of operations and prepares the environmental assessment (EA).

Sites that would qualify under the General Quarry Permit would be evaluated by the state using the information supplied in the General Quarry Plan of Operations and Application for Operating Permit form included in the appendices of the SEA. Without the General Quarry Permit, the operators of proposed multiple small sites would be forced to go through the lengthy permitting process for a standard operating permit and incur greater costs and time delays in obtaining a permit. There is nothing in the new permit or supplemental information form that would preclude a federal agency from requiring a plan of operations and preparing an EA as is typically done for state-excluded small miners' operations. In other words, the General Quarry Permit removes one layer of regulation for operations that would qualify. DEQ would review and approve operations that qualify under the General Quarry Permit contingent on approval from the federal agency. Finally, DEQ believes that General Quarry Permit is not duplicative as joint reviews are done now for all operations on federal lands that exceed the SMES limits.

In addition, the MMRA does not require regulation of common use pits and quarries on federal land in those instances when the responsible federal agency manages a pit or quarry for continuing occasional sales.

RESPONSE TO MARTIN HOLT'S COMMENTS ON IMPACTS OF ROCK PICKING ON MONTANA COUNTIES AND THE POTENTIAL FOR CULTURAL/AESTHETIC IMPACTS:

DEQ is aware of the varying level of impacts to various Montana counties from rock collecting activities across the state. For this reason, DEQ copied the County Commissioners in all 56 counties with a copy of the SEA. If rock picking continues to increase to the point that impacts became problematic in a particular county, and DEQ received many complaints, DEQ could reopen the analysis for a new operating permit application under cumulative impacts under MEPA and prepare a supplemental environmental assessment.

DEQ is also aware of the cultural/aesthetic impacts associated with quarrying and rock picking activities. A lot of decorative rock is being recovered in these operations and relocated to many parts of Montana as well as other states. The MMRA does not give DEQ authority to impose restrictions on a cultural or aesthetic basis. Impacts to significant Native American or historically significant sites on federal land would be mitigated under federal laws and regulations. DEQ does not have authority to require mitigations on private land, but would facilitate a compromise between the operator and SHPO. Based on a comment received from SHPO, DEQ has revised Section V.1 of the General Quarry Plan of Operations listed in Appendix A of the SEA to read:

“The Operator will *contact the State Historic Preservation Office (SHPO) and request a file search for previously recorded archeological sites in the permit area. Attach a copy of the SHPO response.*”

This will help address the cultural issue.

RESPONSE TO RALPH JACKSON'S COMMENTS ABOUT GOVERNMENTAL REGULATIONS AND THE IMPACTS ON QUARRYING IN MONTANA:

The Metal Mine Reclamation Act was passed in 1971 and has regulated mining on state, federal and private lands since that time. DEQ agrees that state and federal regulations and environmental laws are sometimes redundant. DEQ and the federal agencies have Memoranda of Understanding to limit the redundancy. The purpose of the General Quarry Permit is not to create more government, paperwork and redundancy. On the contrary, the purpose is to allow operations that meet the requirements listed in the General Quarry Permit Application to proceed without lengthy permitting and environmental review periods currently required. On federal lands, if the operation meets the requirements of the General Quarry Permit, DEQ would approve it contingent on approval from the federal agency.

The second purpose of the General Quarry Permit is to allow multiple sites, which is not presently allowed under the small miner's exclusion statement.

DEQ considers soil salvage an important part of a quarry operation especially on the flat staging areas. DEQ does not agree that soil salvage is too expensive. In fact, DEQ contends that soil must be removed as part of the overburden in any event. DEQ does not require salvage on the rock ribs. DEQ does not require soil to be separated from the rock as it is being quarried.

Scaling back highwalls would not be required on all sites. In an area as you described in your letter, DEQ would not require scaling back. However, DEQ cannot predetermine requirements on Forest Service lands. Your description of pushing the waste rock and dirt up against the highwall is what DEQ would require in almost all operations with a highwall.

Bonding will be required based on the estimated cost to the state to complete the reclamation. Bonds are based on construction estimates and include indirect costs such as mobilization, contract administration, etc.

DEQ does not get involved with royalties.

DEQ would require fencing quarry operations only if there is a public safety hazard. On private lands, the landowner or the quarry operator, as part of his lease agreement could control access. On federal lands, access and restrictions to public use would be controlled by the federal land management agency based on public safety issues. If the operator on federal lands wanted to control access for confidentiality issues, that would have to be worked out with the federal agency.

RESPONSE TO COMMENT FROM VALLEY COUNTY ROAD DEPARTMENT ABOUT APPLICABILITY OF SEA TO GRAVEL PITS:

The General Quarry Permit does not apply to gravel pits; the Open Cut Mining Act regulates them.

RESPONSE TO STATE HISTORIC PRESERVATION OFFICE COMMENT ON REWORDING SECTION V1. OF THE SEA ABOUT ARCHEOLOGICAL/HISTORIC SITES:

DEQ has revised the section V 1. of the General Quarry Plan of Operations in Appendix A of the SEA to say “The Operator will *contact the State Historic Preservation Office (SHPO) and request a file search for previously recorded archeological sites in the permit area. Attach a copy of the SHPO response.*”

RESPONSE TO ANONYMOUS CALL ON SEA ABOUT BONDING:

DEQ uses construction estimation techniques to calculate bonds on all operating permits and includes indirect costs to cover expenses such as mobilization and contract management. DEQ would use the same bonding method for these sites as it does for all operating permits in Montana.

RESPONSE TO PLUM CREEK COMMENT ON SENSITIVE PLANT SPECIES:

DEQ struck out the word sensitive in the SEA. That is one change made in the SEA from the 1999 Draft and 2000 Final Programmatic EA.