

DEQ OPENCUT MINING PROGRAM

SUPPLEMENTAL ENVIRONMENTAL ASSESSMENT

APPLICANT: Badger Materials Inc. **COUNTY:** Broadwater

SITE NAME: Wertz **DATE:** June 2010

LOCATION: Section 33, T7 N, R2 E

APPROVED PERMIT #: 720

Type and Purpose of Action: Operator has applied for an amendment to add 17.5 acres to their 12.5-acre permit for the purpose of expanding the mine area. The total permitted area would be 30 acres. The proponent would mine approximately 250,000 cubic yards from the amendment area, for a new permit total of 700,000 cubic yards. In addition, this amendment would adequately update the bond and would include all currently disturbed areas in the new permit boundary.

Site Description: The 17.5-acre proposed amendment area is an addition that encompasses the existing permitted area on the north, east, south, and most of the west side. The operation would continue to mine in a counter clockwise manner starting in the south east and progressing toward the north. There is a power line that runs diagonally across the permit area. There are nearby residences and an irrigation canal located within 1,000 feet of the proposed amendment areas. Hours of operation would be restricted from 8am to 5pm Monday through Saturday to reduce adverse impacts on nearby residents.

Montana Natural Heritage Program: The Montana Natural Heritage Program (MNHP) lists the following species of concern in the vicinity of the site:

Lark Bunting (*Calamospiza melanocorys*) is a prairie songbird. In summer it is found in the Great Plains, including the eastern three-quarters of Montana. It migrates to the Southwestern U.S. and Northern Mexico for winter. This species utilizes short-grass and mixed-grass grass communities as well as fallow fields, roadsides, and hayfields.

Long-billed Curlew (*Numenius americanus*) is a large North American shorebird. Adults have a very long bill curved downwards, a long neck and small head. The bird usually feeds in flocks, with food consisting of crabs and various other small invertebrates.

Brewer's Sparrow (*Spizella breweri*) 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.

State Historic Preservation Office: The Montana State Historic Preservation Office (SHPO) was notified of the application. It reported that the Montana Ditch is partially located within the section. The Bureau of Reclamation has determined it eligible for listing in the National Register. A pedestrian survey of the area by DEQ personnel did not reveal any artifacts or signs of occupation. If during operations resources were to be discovered, activities would be temporarily moved to

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.

