

DEQ OPENCUT MINING PROGRAM

SUPPLEMENTAL ENVIRONMENTAL ASSESSMENT

APPLICANT: Elk Creek Contracting Inc.

COUNTY: Sanders

SITE NAME: Rees

DATE: January 2011

LOCATION: Section 9, T26 N, R34 W

APPROVED PERMIT #: 1169

Type and Purpose of Action: Operator has applied for an amendment to add 2 acres to their 1-acre permit for the purpose of expanding the mine area. The total permitted area would be 3 acres.

Site Description: The 2-acre proposed amendment area is an addition directly adjacent to the existing permitted area. The 2 acre amendment area is an area that has already been disturbed by mining operations. This amendment will bring the permit into compliance. There are no site characteristics of special concern, or nearby residences or public use areas.

Species of Concern: The Montana Natural Heritage Program (MNHP) lists the following 10 species of concern in the vicinity of the site.

Harlequin Duck (*Histrionicus histrionicus*) is a duck whose males sport slate blue body plumage with white bands and collars, bordered with black lines on the chest and neck with a black streak bordered by white and amber lines on top of the head. The ducks are migratory birds and arrive in Montana in late April to early May. They prefer low gradient, clear mountain streams and primarily eat stoneflies, mayflies and caddis flies.

Bald eagle (*Haliaeetus leucocephalus*) is a bird of prey found in North America that is most recognizable as the national bird and symbol of the United States of America. This sea eagle has two known subspecies and forms a species pair with the white-tailed eagle. Its range includes most of Canada and Alaska, all of the contiguous United States and northern Mexico. It is found near large bodies of open water with an abundant food supply and old-growth trees for nesting.

Peregrine Falcon (*Falco peregrinus*) can be found year round across the state. They arrive in northern breeding areas late April through early May, and departure begins late August through early September. Nests typically are situated on ledges of vertical cliffs, often with a sheltering overhang. Ideal locations include undisturbed areas with a wide view, near water, and close to plentiful prey.

Westslope Cutthroat Trout (*Oncorhynchus clarkii lewisi*) is one of two subspecies of native cutthroat found in the state. It has been designated as Montana's state fish. Westslope cutthroat trout require cold water and seek out gravel substrates in riffles and pool crests for spawning habitat.

Gray wolf (*Canus lupus*) is the largest of the wild dogs. In Montana, its range is predominately the western mountainous portion of the state. This species is not migratory but may move seasonally following migrating ungulates within its territory. The gray wolf exhibits no particular habitat preference except for the presence of native ungulates within its territory on a year round basis.

Fisher (*Martes pennanti*) is a medium-sized mammal with a long, low stocky body and relatively long and heavily furred tail. The fisher occupies dense coniferous or mixed forests and tends to reside in tree hollows, under logs, in ground or rocky crevices or in the branches of conifers. The fisher's diet consists of small mammals, birds and fruit.

Wolverine (*Gulo gulo*) is a bear-like mustelid with massive limbs and long, dense, dark brown pelage, paler on the head, with two broad yellowish stripes extending from the shoulders and joining on the rump. Wolverines are limited to alpine tundra, and boreal and mountain forests in the western mountains. They feed on a variety of roots, berries, small mammals, birds' eggs and young, fledglings, and fish. They may attack moose, caribou, and deer hampered by deep snow.

Canada Lynx (*Lynx Canadensis*) is a medium sized cat with silver-gray to grayish-brown upperparts and a white belly and throat. Lynx have long legs and a relatively short, compact body. Lynx inhabit subalpine forests and avoid large openings, but often hunt along edges in areas of dense cover. The Lynx's primary food consists of the snowshoe hare, although they also diet on squirrels and other small mammals.

Dwarf woolly-heads (*Psilocarphus brevissimus*) is a low annual with erect to prostrate, branched stems that are up to 5 cm tall. The alternate, lance-shaped leaves are 5-25 mm long, and the foliage is densely covered with white, tangled hairs. Minute flowers are borne in globose, woolly heads that are partially hidden among the upper leaves. Habitat consists of drying mud ponds and other vernal wet soil in the valleys and on the plains.

Diamond Clarkia (*Clarkia rhomboidea*) is a rare plant in Montana found along the lower Clark Fork River drainage. Common Clarkia is an annual with mostly unbranched stems that are 15-50 cm tall. The few leaves are opposite and have 1-3 cm long petioles and lance-shaped to elliptic, entire-margined, 2-7 cm long blades. The few flowers are borne in a loose, narrow, nodding inflorescence which terminates the stem; the 4 separate petals are spoon-shaped, 5-10 mm long, and rose-purple, often with purple dots. Flowering occurs in late May-June. Habitat consists of open forest slopes with gravelly soils in the montane zone.

None of the listed species have been found on this site. Even if suitable habitat did exist on this site, the 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.

Historical and Archeological Sites: The Montana State Historic Preservation Office (SHPO) was notified of the application. It reported that 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. SHPO feels there is a low likelihood that cultural properties will be impacted, and therefore do not recommend a cultural resource inventory at this time. Should cultural materials be discovered during the project, SHPO asks that their office be contacted and the site investigated.

Potential Impacts and Mitigation: Use of the amendment area would not cause substantial impacts on the physical environment and human population. Proponent would be legally bound by their permit to reclaim the site to grassland. The 1997 Environmental Assessment is applicable to this action.

Prepared By: Kenley Stone Opencut Mining Program Environmental Specialist
Name Title

Reviewed By: Chris Cronin Opencut Mining Program Supervisor
Name Title

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.

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Permit Boundary

quad 4

Permit Boundary



* Well locations

* ← Tom O'Brien well location
 * ← Dave Strack well location

REES SITE, PERMIT #1169

Elk Creek Contracting, Inc

DATE 06-15-10	SANDERS COUNTY SEC. 9, T. 26N, R. 34W
SCALE 1" = 100'	SHEET 2 OF 2