

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: Noble Excavating, Inc.

COUNTY: Lincoln

SITE NAME: Sunset Ranch

DATE: March 2012

LOCATION: Section 31, T29N, R30W

PROPOSAL: The applicant proposes to permit a long-term pit to mine, crush, stockpile and transport 149,000 cubic yards of soil, gravel and clay from a 37.8-acre site located 11 miles southeast of Libby, Montana. This site has been active since sometime in 2008 when it was opened as a future subdivision. Topsoil was removed for various projects including the EPA efforts to mitigate asbestos contamination in the Libby area. The site expanded in recent years and during 2011 extraction became an activity that required an Opencut permit.

A reclamation bond would be held by DEQ to ensure that final reclamation of the site would be completed by the year 2040. 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>This site is relatively flat ground located within the Libby Creek valley in the foothills of the Cabinet Mountains. The material being mined is a glacial outwash that has been reworked by fluvial activities of Libby Creek. The onsite soils consist of silty clay loam. The operator will replace eight inches of soil and twelve inches of overburden. The site receives approximately 18 inches of precipitation per year.</p> <p><i>Impacts:</i> An irreversible and irretrievable removal of topsoil, sand, gravel and clay from the site would occur. The 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 is no unusual topographic, geologic, soil, or special reclamation considerations that would prevent reclamation success.</p>

IMPACTS ON THE PHYSICAL ENVIRONMENT	
RESOURCE	POTENTIAL IMPACTS AND MITIGATION MEASURES
2. WATER QUALITY, QUANTITY AND DISTRIBUTION	<p>This site has areas of high groundwater, especially in the southwest corner of the permit area. There was a drainage ditch that tends to dewater this area. The reclaimed use as a pasture would not be negatively affected by a near-surface water table. Water will be used onsite to control dust, and will be trucked in from the Libby area.</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> The proposed action will have little to no impact on water quality, quantity or distribution.</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 a mix of imported grasses planted for pasture with some native species that have survived. Parts of the site were covered by forest and conifer trees and understory provided approximately 90% 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 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 13 species of concern in the vicinity of the site: Common Loon, Great Blue Heron, Bald Eagle, Pileated Woodpecker, Clark's Nutcracker, Brown Creeper, Cassin's Finch, Torrent Sculpin, Westslope Cutthroat, Bull Trout, Hoary Bat, Fisher, Woverine.</p> <p><i>Impacts:</i> 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.</p>

IMPACTS ON THE PHYSICAL ENVIRONMENT	
RESOURCE	POTENTIAL IMPACTS AND MITIGATION MEASURES
7. HISTORICAL AND ARCHAEOLOGICAL SITES	<p>The Montana State Historic Preservation Office (SHPO) was notified of the application. It reported that no have been discovered previously on this property. A pedestrian survey of the area by DEQ personnel was conducted after the site had already been stripped and 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	<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 PLANS AND GOALS	<p>Lincoln zoning clearance has been obtained. This site is not zoned but was approved for single family residential use as part of the Sunset Ranch Subdivision.</p>
10. DENSITY AND DISTRIBUTION OF POPULATION AND HOUSING	<p>As seen on the aerial photo of the surrounding area, there are residences to the north, east and south of this proposed permit area. The nearest residences are approximately 1,000 feet away along Libby Creek Road to the south and the Champion Haul Road across Highway 200 to the east.</p> <p><i>Impacts:</i> This commercial pit is being sited in this area because of the location of the resource, and to provide resources for special EPA projects.</p>
11. AESTHETICS	<p>The site is located in a pasture and wooded 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-termed, i.e., planned to take 30 years to complete. Hours of operation are stated as Monday-Friday: 7:00 am-7:00 pm. The site is not very visible to the general public.</p>
12. QUANTITY/ DISTRIBUTION OF EMPLOYMENT	<p>Existing employees would mainly be utilized for this operation. There is low potential that this project would create a significant number of new jobs.</p> <p><i>Impacts:</i> New employment opportunities would be limited.</p>
13. INDUSTRIAL, COMMERCIAL, AGRICULTURAL ACTIVITIES AND PRODUCTION	<p>The acreage listed in the proposal would be taken out of pasture and forest use. Upon completion of mining, the land would be reclaimed to pasture/rangeland.</p> <p><i>Impacts:</i> Pasture and timber 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 actives, all pasture and forest-related activities would cease.</p>
14. LOCAL, STATE TAX BASE AND TAX REVENUES, PERSONAL AND COMMUNITY INCOME	<p>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.</p>

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.

