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: Franz Construction, Inc.

COUNTY: Richland

SITE NAME: Albin Section 27

DATE: October 2013

LOCATION: Section 27, T23 N, R59 E

PROPOSAL: The applicant proposes to permit a new, long-term gravel pit to mine, screen, crush, stockpile and transport 435,000 cubic yards of gravel from a 54.9-acre site located one mile northeast of Sidney. The site is currently irrigated cropland. Richland County Road 126 is adjacent to the north boundary of the site and the operator would maintain a 20 foot buffer from the road right-of-way. The road right-of-way also contains underground telephone lines. The west boundary of the site is adjacent to a BNSF railroad right-of-way and to a Lower Yellowstone Electric Co-op transmission line. The permit area would be outside of the railroad right-of-way. The operator would leave a 20 foot buffer from the transmission line and a 10 foot radius with 2:1 slopes for power poles. The Lower Yellowstone Irrigation District has a large drainage ditch and irrigation laterals that border the site. The operator would maintain a 50 foot buffer from the drainage ditch and a 30 foot buffer from the irrigation lateral. Large grain elevators are located approximately 450 feet west of the site. The Yellowstone River is located approximately 1 mile east of the site.

A reclamation bond would be held by DEQ to ensure that final reclamation of the site to cropland/hayland would be completed by December 2024. 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:	The site is a nearly level alluvial bench. The geology is Quaternary alluvium located on stream paleoterraces on the third bench up from the present day Yellowstone River. The onsite soils consist of Turner clay loam, Savage silty clay loam, and Beaverton loam. The operator would replace 18 inches of soil and 18 inches of overburden.

IMPACTS ON THE PHYSICAL ENVIRONMENT	
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	The site receives approximately 14 inches of precipitation per year. *Impacts:* An irreversible and irretrievable removal of gravel 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.
2. WATER QUALITY, QUANTITY AND DISTRIBUTION	A large irrigation drainage ditch and smaller irrigation water laterals are adjacent to the site's northwest, west, and south boundaries. Water will be used on-site for dust control; it will be obtained from a commercial source more than 1,000 feet from the site. *Impacts:* The proposed activities would have a minimal effect on the quantity and quality of the surface and groundwater resources. *Cumulative:* Cumulative impacts of the proposed action on resources would be negligible.
3. AIR QUALITY	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. 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. 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. *Impacts:* Air quality standards as set by the federal government and enforced by the ARMB would allow minimal detrimental air impacts.
4. VEGETATION COVER, QUANTITY AND QUALITY	There are no known rare or sensitive plants or cover types present in the site area. Onsite vegetation consists of fallow ground and sugar beets, and provides approximately 70% 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. *Impacts:* No long term detrimental impacts to the vegetation would occur.
5. TERRESTRIAL, AVIAN AND AQUATIC LIFE AND HABITATS:	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. *Impacts:* 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.
6. UNIQUE, ENDANGERED, FRAGILE OR LIMITED ENVIRONMENTAL	The Montana Natural Heritage Program (MNHP) lists the following 3 species of concern in the vicinity of the site: **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

IMPACTS ON THE PHYSICAL ENVIRONMENT	
RESOURCE	**POTENTIAL IMPACTS AND MITIGATION MEASURES**
RESOURCES:	America. This sea eagle has two known sub-species 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. **Whooping Crane** *(Grus americana)* 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 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 females. 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 breeds monogamously with the same mate throughout life. **Pale-spiked Lobelia** *(Lobelia spicata)* is a herbaceous perennial with unbranched stems. Flowers are 7-12 mm long and are born on short, 2-5 mm long stalks in a sparingly branched, narrow, crowded inflorescence. Each flower has 5 narrow sepals that are 5-9 mm long and a light blue, tubular, 4-10 mm long corolla that flares into a spreading 2-lobed upper lip and a 3-lobed lower lip. The ovary is below the base of the corolla and matures into a nearly globose capsule that is 3-5 mm high. It flowers in late July to early August. *Impacts:* 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.
7. HISTORICAL AND ARCHAEOLOGICAL SITES	The Montana State Historic Preservation Office (SHPO) was notified of the application. It reported that two sites have been discovered previously within the designated search locale. A pedestrian survey of the area by DEQ personnel did not reveal any artifacts or signs of occupation. SHPO reported that as long as there will be no disturbance or alteration to structures over fifty years of age we feel that there is a low likelihood cultural properties will be impacted. SHPO feels that a recommendation for a cultural resource inventory is unwarranted at this time. However, should structures need to be altered or if cultural materials be inadvertently discovered during this project we would ask that our office be contacted and the site investigated. *Impacts:* 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.
8. DEMANDS ON ENVIRONMENTAL RESOURCES OF LAND, WATER, AIR OR ENERGY	There are no unusual demands on land, water, air or energy anticipated as a result of this project. *Impacts:* Negligible impacts to land, water, air, or energy would occur.

IMPACTS ON THE HUMAN POPULATION	
RESOURCE	**POTENTIAL IMPACTS AND MITIGATION MEASURES**
9. LOCALLY ADOPTED ENVIRONMENTAL PLANS AND GOALS	Richland County zoning clearance has been obtained. The site is not zoned.
10. DENSITY AND DISTRIBUTION OF POPULATION AND HOUSING	As seen on the aerial photo of the surrounding area, there are three farm residences located approximately 200, 630 and 2,000 feet to the northeast. *Impact:* This commercial pit is being sited in this area because of the location of the resource, and to service the area's growing demand for aggregate in the oil and gas industry.
11. AESTHETICS	The site is located in a common agricultural 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 21 years to complete. Soil stockpiles in the northeast corner of the site would act as a berm to provide a visual and noise shield for the farm residence located to the northeast.
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. *Impacts:* New employment opportunities would be limited.
13. INDUSTRIAL, COMMERCIAL, AGRICULTURAL ACTIVITIES AND PRODUCTION	The acreage listed in the proposal would be taken out of agricultural use. Upon completion of mining, the land would be reclaimed to cropland/hayland. *Impacts:* Agricultural 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 agricultural activities would cease, but would be restored as the site is reclaimed.
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 Opencut Program personnel would be conducted in concert with other area activity when in the vicinity.
16. HUMAN HEALTH AND SAFETY	Any industrial activity would increase the opportunities for accidental injury. There are agencies that require the Operator to implement specific safety measures. 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	*Impacts:* 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 Preservation Office, Montana Natural Heritage Program, Richland County Planning Department (zoning), Richland County Weed Control Board, Lower Yellowstone Irrigation District, Richland County Road Department, and Lower Yellowstone Electric Co-op.

21. Other Governmental Agencies which May Have Overlapping or Sole Jurisdiction include, but may not be limited to: Richland County Commission or County Planning Department (zoning), Richland County Weed Control Board, MSHA and OSHA (worker safety), DEQ ARMB (air quality) and Water Protection Bureau (groundwater and surface water discharge; stormwater), DNRC (water rights), and MDT (road access).

22. Regulatory Impact on Private Property: The analysis done in response to the Private Property Assessment Act indicates no impact. The Department does not plan to deny the application or impose conditions that would restrict the use of private property so as to constitute a taking.

23. Magnitude and Significance of Potential Impacts: This proposal is not likely to create impacts of significance due to mitigation, restrictions, and oversight mandated by the Opencut Mining Act and pursuant rules and the Montana Clean Air Act.

24. Recommendation for Further Environmental Analysis: [ ] EIS [X] No Further Analysis

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EA Reviewed By: Chris Cronin (Name) Opencut Mining Program Supervisor (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.

Google Earth Pro

feet 2000
meters 800

— LYREC Easement

— LYIP Drain + lateral easements

— Top Soil Storage

RECIEVED BY OPENCUT 10/9/2013