

DECISION RECORD
Environmental Assessment
DOI-BLM-ID-B010-2011-0065-EA
McFadden Lane Free Use Permit Renewal

Based on a review of the Environmental Assessment (EA) and Finding of No Significant Action (FONSI), which this decision record incorporates by reference, I have decided to authorize Alternative 3 to renew a Free Use Permit (FUP) to Washington County Road and Bridge (WCRB) at the McFadden Lane site for a period of 10 years. The FUP would allow WCRB to crush and remove up to 100,000 cubic yards of basalt material at the site. The 40-acre site has been shifted 20 acres to the south of the previously authorized permit and will allow WCRB more stockpiling and staging room south of McFadden Lane while avoiding impacts to established stands of bitterbrush.

Authorities:

The authority for this decision is contained in 43 CFR 3601.3, the Material Act of July 31, 1947, as amended, which allows the Secretary of the Interior, in his discretion, to dispose of mineral materials not subject to mineral leasing or location on public lands when the benefits to be derived exceed aggregate damage values to public land (43 CFR 3601.6). Renewal of the FUP at the McFadden Lane site will provide continued free materials for WCRB's use in maintain area county roads for the public to use.

Compliance and Monitoring:

As part of this decision, and in conformance with 43 CFR 3602.29 and BLM Handbook H-3600-1, Mineral Materials Disposal Handbook, Chapter VII (D), Inspection and Enforcement/Product Verification (I&E/PV) site visits will be conducted, at a minimum, annually by BLM minerals staff.

Terms / Conditions / Stipulations:

As part of this decision, the following stipulations will be adhered to by the permittee:

1. All materials removed will be extracted in accordance with approved conservation practices so as to preserve, to the maximum extent feasible, all scenic, recreational, watershed and other values of the land and resources (43 CFR § 3601.6).
2. When American antiquities or other objects of historic or scientific interest, including but not limited to: historic or prehistoric ruins, vertebrate fossils or artifacts, are discovered in the performance of this contract, the item(s) or condition(s) will be left intact and immediately brought to the attention of the district manager or his authorized representative.
3. Permittee will immediately notify the BLM's Authorized Officer of any human remains unearthed during mining operations (25 USC 3002 Section 3 (d) "*inadvertent discovery of Native American remains and objects*").
4. The permittee will maintain the area free of trash, refuse, and invasive plants during operations and termination of the contract.

5. Permittee will be responsible for suppression costs of any fires resulting from actions under this permit or contract.
6. Each year, within 30 days of January 1st and 30 days prior to the expiration date of the permit, the permittee will submit a statement to the BLM indicating the type and volume of materials removed from the permit area during the previous year.
7. The approved mining and reclamation plan is part of this permit as special conditions governing all operations under the permit.
8. Any deviations from the approved reclamation plan and these stipulations will be subject to approval by the BLM authorized officer prior to such actions.
9. Upon expiration of the permit the permittee will, within 90 days, remove all equipment, personal property, and other improvements from the area.
10. The authorized officer may cancel the permit if the permittee fails to observe its terms and conditions, or if the permit has been issued erroneously (43 CFR § 3601.61).
11. The permittee will indemnify and save harmless the United States of America against any liability for damages to life, person, or property arising from the use of the lands under this permit.
12. The subject site and haul roads will be sprayed as necessary with water or other suitable material to minimize dust created by these activities.
13. Proper mufflers and spark arresters will be maintained on equipment used in this project to reduce noise levels and to limit the potential for fires. In addition, the permittee and any contractors or subcontractors will maintain and have on the site adequate fire prevention and extinguishing equipment.
14. The permittee will remove only as much overburden and vegetation as is needed for each operation so as to keep visual, wildlife, and land stability impacts to a minimum.
15. No construction waste material or other debris may be hauled onto the site, stockpiled or used as fill material, other than that material which was found on the site at the time of signature of this contract.
16. Whenever possible, reclamation shall proceed concurrently with excavation.
17. Upon completion of this project, the authorized officer will inspect the site to determine which quarry walls may be left intact for use as nesting sites for raptors. Sites not left intact shall be sloped to a minimum of 3:1 ratio. Overburden will be replaced and all remaining disturbed areas will be seeded with a mixture of seed and rate to be specified by the BLM at the time of reclamation.
18. This permit does not grant the permittee exclusive use of the public lands identified herein. The Bureau of Land Management reserves the right to remove materials from the land and the right to authorize other governmental agencies or individuals to obtain materials from the site, consistent with safe and orderly use of the lands.

19. All operators are required to provide employee training sufficient to meet the requirements of Title 30, CFR, Part 46 and 62, regarding operator safety training and noise exposure standards. Permittees that contract crushing and screening of materials are responsible for ensuring that contractors have met all of the above requirements. Additional information may be obtained from the internet at www.msha.gov/.
20. Noxious weed and invasive plant control will be the responsibility of the permit holder. Best management practices will be followed. These include, but are not limited to:
 - a. Washing the undercarriage of all vehicles prior to use in any work area.
 - b. Monitoring of disturbed areas for noxious or invasive weeds for three (3) years after work completion.
 - c. Prompt treatment action after identification of noxious or invasive weed infestation, including proper application of BLM-approved herbicides, or physical removal and disposal.
 - d. At the completion of the permit, replanting with a BLM-approved seed mix to help prevent weed infestation.

PLAN CONFORMANCE AND CONSISTENCY:

The proposed action and alternatives have been reviewed and found to be in conformance with the following BLM Land Use Plan and the associated decision;

The Cascade Resource Management Plan, Final Environmental Impact Statement (RMP) and Record of Decision (RMP-ROD), July 1988.

Mineral material disposal is specifically provided for in the following RMP and RMP-ROD management direction and guidelines:

RMP:

Page 17 - "Minerals Management, Saleable: Sands, gravels and other saleable minerals would be made available from three material sites and 16 free use sites. Rationale: The plan recognizes a continuing demand for mineral materials and the policy to make these materials available where consistent with protection of other resource values. The procedures for saleables allows for protection of resource values through the sale agreement and for adequate site rehabilitation after the materials have been removed."

Page 31 - "Continue making available saleable minerals from three material sale sites and 16 free-use sites as needed."

Page 56 - "BLM will manage geological, energy, and minerals resources on the public lands. Geological resources will be managed so that significant scientific, recreational, ecological and educational values will be maintained or enhanced. Generally, the public

lands are available for mineral exploration and development, subject to applicable regulations and Federal and State laws.”

“Mineral material sales are discretionary actions. All mineral disposals will be made in accordance with 43 CFR 3600. The general policy shall be to promote the use of existing sites. New sites may be set up if it is determined that an existing site will not meet the applicant’s needs and site impacts can be sufficiently mitigated.”

“Exploration for new sites will be the responsibility of the applicant. Exploration will be allowed where appropriate under a letter of authorization from the Area Manager. Sale approval will be subject to environmental analysis and may include stipulations to protect other resources.”

Page 63- *“Consistency with Other Plans, Minerals (Energy and Nonenergy): The local land use plan supports the development of mineral resources in a manner compatible with environmental goals (protects streams and minimizes unfavorable visual impacts).”*

Page 65- *“Implementation, Minerals (Energy and Nonenergy): Procedures outlined in current laws and regulations (federal and state) will be applied to all applications. Mineral reports and environmental assessments will be prepared and appropriate clearances obtained. Standard and special stipulations will be followed.”*

Alternatives Considered:

An alternative considered but not analyzed in detail was to locate another site for mineral materials. This alternative did not meet all of the applicant’s needs which were: 1) a source of free materials; 2) a site that exists in an geographically strategic area in Washington County that would provide the shortest hauling distances to where the material would be used; 3) an adequate supply of mineral materials to meet the county’s road maintenance needs in the immediate area; and 4) a supply of mineral materials that meet the required type and quality for the county’s uses in the area.

Other alternatives considered and analyzed were: Alternative 1 - Proposed Alternative which would authorize renewal of just the existing 40-acre site; Alternative 2 which would authorize the original 40-acre site with a 20 acre addition to the west; Alternative 3 - Preferred Alternative which would eliminate the impractical/unusable 20 acres north of McFadden Road and add 20 acres to the south; and Alternative 4 - Reject the Application for the FUP renewal.

Decision and Rationale:

It is my decision to authorize the competitive sale of mineral materials as described in Alternative 3 (Preferred Alternative) of the Environmental Assessment #DOI-BLM-ID-B010-2011-0065. The actions analyzed in the Environmental Assessment will not constitute a major federal action that would significantly affect the quality of the human environment; therefore, an Environmental Impact Statement was not required and a finding was made of no significant impact (FONSI – signed September 27, 2012).

My decision to authorize the proposed action (Alternative 3) will allow Washington County Road and Bridge to continue extracting free mineral materials at the McFadden Lane site for maintaining many county roads in the area. Without this renewal authorization, the county would incur increased hauling costs and possible material costs should they be forced to buy materials from a private party.

Appeal: Any appeal of this decision must follow the procedures set forth in 43 CFR Part 4. Within 30 days of the decision, a notice of appeal must be filed in the office of the authorized officer at the Bureau of Land Management Four Rivers Field Office, 3948 Development Avenue, Boise, Idaho, 83705. If a statement of reasons for the appeal is not included with the notice, it must be filed with the *Interior Board of Land Appeals (IBLA), Office of Hearings and Appeals, U.S. Department of the Interior, 801 North Quincy St., Suite 300, Arlington, VA 22203* within 30 days after the notice of appeal is filed with the authorized officer.

To file a petition for stay pursuant to 43 CFR part 4.21(b), it must accompany your notice of appeal and must show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied.
- (2) The likelihood of the appellant’s success on the merits.
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

If a petition for stay is submitted with the notice of appeal, a notice of appeal and petition for stay must be served on each adverse party named in the decision from which the appeal is taken and on the *Office of the Solicitor, Field Solicitor – U. S. Department of the Interior, University Plaza, 960 Broadway Avenue, Suite 400, Boise, Idaho, 83706*, not later than 15 days after filing the document with the authorized officer and/or IBLA.

If you have any questions regarding this decision, or your appeal rights, please contact Valerie Lenhartzen, Boise District Geologist, at (208) 384-3395, or e-mail her at vlenhartzen@blm.gov.

/s/ Terry A Humphrey
Terry A. Humphrey
Four Rivers Field Manager

9/27/2012
Date